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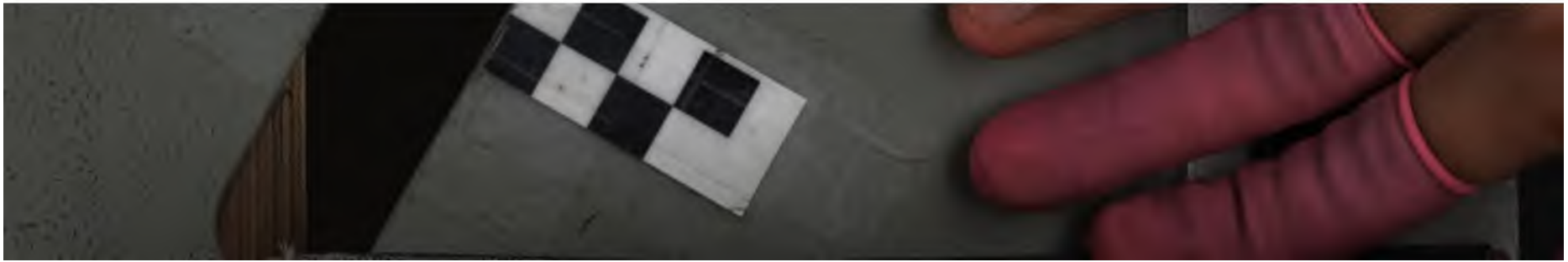
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# INTRODUCTION TO THE ENGLISH HISTORIANS

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# AN INTRODUCTION TO THE ENGLISH HISTORIANS

BY

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# PREFATORY NOTE

A COLLEGE course in English history must introduce the student to a number of great authorities on special periods and topics. It is not enough that these authorities should be casually read; they should be studied as carefully as a case-book in law, and then critically considered in the classroom. It is also necessary that all the students should do this special reading at the time when the particular topic is reached in the text-book or lectures.

The teacher is therefore confronted with the problem of controlling this additional reading, and of satisfying himself that it is well done by all the students. If he has large classes, he constantly meets the complaint that the students have not been able to secure the required book at the proper time, and concerted class work is thereby destroyed. If he seeks to avoid this difficulty by requiring the students to hand in notes, he not only makes class discussion impossible, but he doubtless discovers that a great deal of the note-taking is perfunctory, and that some have copied from the more industrious.

Finding my own experience confirmed by that of many other teachers of English history, I venture to issue this volume of readings as an attempt at a partial solution of the problem stated above. I am conscious of the difficulties accompanying such an enterprise, and realize fully the great and legitimate divergence of opinion that teachers will have in selecting assignments for their students. It seems, however, that all the topics included in this collection are of first-rate importance, and that the authorities represented are those worthy of careful study. That there are hundreds of equally important selections and other writers on English history of quite as high rank, there can





be no doubt; but every undertaking has its limitations. Moreover, the problem of proportion is a difficult one; but I believe many excellent arguments might be advanced for devoting one half the book to the last three centuries of English history.

Such a collection as this does not obviate the necessity of recourse to the authorities themselves; it only enables the teacher to compel a thorough study of minimum requirements. Indeed, the extracts given here should stimulate an interest in the great historians and lead the student further afield. All the books quoted below should be in the library of every college.

In addition to introducing the student to many English historians, these readings may serve as the basis for critical operations of great disciplinary value. By having the students turn to the original volumes from which these extracts are taken and specially examine the foot-notes and citations of evidence, an understanding of the constructive methods of the various authors may be developed. This analysis of secondary authorities should prove as useful in training the critical faculties as an attempt to build up a narrative from the sources. It might prove more useful, since most college students in after life will do far more reading than research. The art of scholarly appreciation is certainly a desirable permanent possession.

To further facilitate critical operations, short bibliographies have been added, especially to those extracts which need amplification or contain controverted views. The selections are reproduced exactly as they stand in the works from which they are taken; no attempt has been made to modify or suppress the opinions of the respective authors. No foot-notes are added, for they are not usually read by the college student. The critical work must be done by the teacher and the students themselves if it is to be of any real value. The bibliographies merely indicate some of the important materials to which they may turn for divergent views. This work may be helpfully supplemented by constant reference to the source books by Kendall, Colby, Lee, Stubbs, Gee and Hardy, Prothero, Gardiner, Robertson,

and Adams and Stephens, which are fortunately known to most college teachers and should be in every teaching library.

I am greatly indebted to the authors and publishers who have generously allowed me to make these selections, and due acknowledgment is made with each extract. I am also under obligations to several teachers of English history, whose names I will not associate with an undertaking so experimental in character.

CHARLES A. BEARD.

COLUMBIA UNIVERSITY,
September, 1906.



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# PART I

## THE FOUNDATIONS OF ENGLAND

## CHAPTER I

### TWO THEORIES OF THE ANGLO-SAXON CONQUEST

THE problem of the racial elements composing English nationality has received extended consideration at the hands of many eminent historians and ethnologists. Indeed, all older writers devoted excessive attention to the question of how far the course of English history has been affected by Celtic, Roman, and Teutonic influences. A great many of them sharply distinguished the Teutons from the Romans, ascribing to the former a peculiar genius for personal liberty and self-government as contrasted with the latter. The adherents to this theory found the illustrations of their doctrines in the history of England and ignored the contradictions to be found everywhere in the history of Germany, the Teutonic country which felt the direct influence of Rome less than did France or England. According to this view, the history of England begins with the story of independent warriors who invaded Britain, swept away the elements of Celtic and Roman culture, and founded a nation of freemen governing themselves through local and national popular assemblies. To be sure, England afterward suffered from feudalism and despotism, but the spirit of liberty inherent in the people finally triumphed over these reactionary forces.

Now this entire theory has been given an importance which its intrinsic worth does not justify, especially in view of the present tendency among scientists to minimize the influence of race as the determining factor in the shaping of institutions. Moreover

the theory, which was largely the outcome of reading democratic ideas of the nineteenth century into very scanty and fragmentary evidences, has been attacked during the last two decades with great energy and erudition. On the other hand, there has appeared an opposing view that the bulk of the English population is Celtic, and that Romano-Celtic institutions persisted in spite of the Anglo-Saxon conquest.

This controversy has not led to any very definite results, and the subjects of discussion have lost whatever moral value they were once supposed to have had, for no one now believes that the form of land tenure in Anglo-Saxon times, for example, throws any light at all on the present English land problem. It might as well be admitted that we can never know the numerical proportion of Celts and Teutons in the English nation, for there are no data on which to base a conclusion. While there is still a tendency to hold that the majority were Teutons, there is also a tendency to reject the theory that these Teutons had any particular genius for political liberty or any peculiar institutions which marked them off from other peoples in a primitive stage of culture. The best statement of the problem as it now stands is in a remarkable study of early English institutions by Professor Maitland, *Domesday Book and Beyond.*

### § 1. *Statement of the Two Theories*[1]

We are told that "in spite of all the labor that has been spent on the early history of England, scholars are still at variance upon the most fundamental of questions: the question whether that history began with a population of independent freemen or with a population of dependent serfs." Some exception may be taken to this statement. No one denies that for the purposes of English history slavery is a primitive institution, nor that in the seventh and eighth centuries there were many slaves in England. On the other hand, no one will assert that we can ascertain, even approximately, the ratio that the number of slaves bore to the number of free men. Moreover, such terms as "dependent" and

[1] Maitland, *Domesday Book and Beyond*, pp. 221 ff.

"independent" are not words that we can profitably quarrel over, since they are inexact and ambiguous.

For all this, however, it may well be said that there are two main theories before the world. The one would trace the English manor back to the Roman villa, would think of the soil of England as being tilled from the first mainly by men who, when they were not mere slaves, were coloni ascript to the land. The other would postulate the existence of a large number of free men who with their own labor tilled their own soil, of men who might fairly be called free "peasant proprietors," since they were far from rich and had few slaves or servants, and yet who were no mere peasants, since they habitually bore arms in the national host. What may be considered for the moment as a variant on this latter doctrine would place the ownership of the soil, or of large tracts of the soil, not in these free peasants taken as individuals, but in free village communities.

### § 2. *Argument for the Second Theory*

Now we will say at once that the first of these theories we cannot accept if it be put forward in a general form, if it be applied to the whole or anything like the whole of England. Certainly we are not in a position to deny that in some cases a Roman villa having come into the hands of a Saxon chieftain, he treated the slaves and coloni that he found upon it in much the same way as that in which they had been theretofore treated, though even in such a case the change was in all probability momentous, since large commerce and all that large commerce implies had perished. But against the hypothesis that this was the general case, the English language and the names of our English villages are the unanswered protest. It seems incredible that the bulk of the population should have been of Celtic blood and yet that the Celtic language should not merely have disappeared, but have stamped few traces of itself upon the speech of the conquerors.

This we regard as an objection which goes to the root of the whole matter and which throws upon those who would make the English nation in the main a nation of Celtic bondmen, the burden of strictly proving their thesis. The German invaders must have been numerous. The Britons were no cowards. They contested the soil inch by inch. The struggle was long and arduous. What then, we must ask, became of the mass of the victors? Surely it is impossible that they at once settled down as the "dependent serfs" of their chieftains.





Again, though it is very likely that where we find a land of scattered steads and of isolated hamlets, there the Germanic conquerors have spared or have been unable to subdue the Britons or have adapted their own arrangements to the exterior framework that was provided by Celtic or Roman agriculture, still, until Meitzen has been refuted, we are compelled to say that our true villages, the nucleated villages with large "open fields," are not Celtic, are not Roman, but are very purely and typically German. But this is not all. Hereafter we shall urge some other objections. The doctrine in question will give no rational explanation of the state of things that is revealed to us by the Domesday Survey of the northern and eastern counties, and it will give no rational explanation of seignorial justice. This being so, we seem bound to suppose that at one time there was a large class of peasant proprietors, that is, of free men who tilled the soil that they owned, and to discuss the process which substitutes for peasant proprietorship the manorial organization.

### § 3. *Feudalism not Retrogression*

Though we cannot deal at any length with a matter which lies outside the realm of legal history, we ought at once to explain that we need not regard this change as a retrogression. There are indeed historians who have not yet abandoned the habit of speaking of feudalism as though it were a disease of the body politic. Now the word "feudalism" is and always will be an inexact term, and, no doubt, at various times and places there emerge phenomena which may with great propriety be called feudal, and which come of evil and make for evil. But if we use the term, and often we do, in a very wide sense, if we describe several centuries as feudal, then feudalism will appear to us as a natural and even a necessary stage in our history; that is to say, if we would have the England of the sixteenth century arise out of the England of the eighth without passing through a period of feudalism, we must suppose many immense and fundamental changes in the nature of man and his surroundings.

If we use the term in this wide sense, then (the barbarian conquests being given us as an unalterable fact) feudalism means civilization, the separation of employments, the division of labor, the possibility of national defence, the possibility of art, science, literature, and learned leisure; the cathedral, the scriptorium, the library, are as truly the works of feudalism as is the

baronial castle. When therefore we speak, as we shall have to speak, of forces which make for the subjection of the peasantry to seignorial justice and which substitute the manor with its villeins for the free village, we shall — so at least it seems to us — be speaking not of abnormal forces, not of retrogression, not of disease, but in the main of normal and healthy growth. Far from us indeed is the cheerful optimism which refuses to see that the process of civilization is often a cruel process; but the England of the eleventh century is nearer to the England of the nineteenth than is the England of the seventh — nearer by just four hundred years.



# CHAPTER II

## OLD BRITAIN AND THE ANGLO-SAXON CONQUEST

AMONG the historians who have adhered to the Teutonic theory of the Anglo-Saxon conquest, Dr. Stubbs stands preëminent for the most cautious and scholarly statement of the case. Like Green and others, he believed that the origins of English institutions were to be sought in the forests of Germany and, dismissing the old British and Roman periods with a few paragraphs, he devoted two chapters to the Germans in their continental home before taking up English history in Britain. His chapter on the migration and conquest contains the main points of his argument in the controversy, and it would be an interesting and profitable exercise for the student to turn to the original volume and examine the evidence upon which the conclusions rest.

### § 1. *Conquest of Gaul and Britain Contrasted*[1]

The fifth century saw the foundation of the Frank dominion in Gaul, and the first establishment of the German races in Britain. The former was effected in a single long reign, by the energy of one great ruling tribe, which had already modified its traditional usages, and now, by the adoption of the language and religion of the conquered, prepared the way for a permanent amalgamation with them. In this process, whilst the dominant tribe was to impose a new mould upon the material which Roman dominion had reduced to a plastic mass, it was in its turn to take forms which but for the pertinacious idiosyncracy of the Gallic genius, and the Roman training to which it had been subjected, it would never have taken. . . .

The Saxons, Angles, and Jutes, although speaking the same language, worshipping the same gods, and using the same laws, had no political unity like the Franks of Clovis; they were not

[1] Stubbs, *Constitutional History of England*, Vol. I, pp. 63 ff. By permission of the Delegates of the Clarendon Press, Oxford.

moved by one impulse or invited by one opportunity. The conquest of Britain was the result of a series of separate expeditions, long continued and perhaps, in point of time, continuous, but unconnected, and independent of one another. It was conducted by single chieftains, who had nothing whatever in common with the nations they attacked, and who were about neither to amalgamate with them nor to tolerate their continued existence. They were men, too, on whom the charm of the Roman name had no power, and whose institutions were more than those of the rest of the barbarians, free from Roman influences; for three centuries after the conquest the Saxons in Germany were still a pure nationality, unconquered by the Franks, untainted by Roman manners, and still heathen.

These separate expeditions had doubtless changed their character in course of time. Beginning as mere piratical visitations of the coast, — such as were those of the Danes and Norsemen at a later period, — they had before the end of the third century called forth the defensive powers of Rome, and taxed the energies of the count of the Saxon shore. It is not until the middle of the fifth century that they assume the dimensions of conquest, colonization, migration; and when they have attained that character, the progress and success of the several attempts are not uniform; each little state reaches greatness by its own route, and the history of its growth makes a mark upon its constitution.

If the Saxons and Angles are contrasted with the Franks, still more are the Britons with the Gauls. Rome had laid a very strong hand on Gaul, and Gaul had repaid in a remarkable degree the cultivation of her masters. . . . Britain had been occupied by the Romans, but had not become Roman; their formative and cultivating power had affected the land rather than the owners of it. Here, too, had been splendid cities, Christian churches, noble public works, and private mansions; but whatever amount of real union may have existed between the two populations ended when the legions were withdrawn. The Britons forgot the Latin tongue; their clergy lost all sympathy with the growth of religious thought; the arts of war had been disused, and the arts of peace never thoroughly learned. The old tribal divisions, which had never been really extinguished by Roman rule, rose from their hiding-places; and Britain was as fertile in tyrants after the Roman conquest as it was before it.

But Roman rule had disarmed and enervated the people; constant foreign invasion found them constantly unprepared, and with-

out hope or energy for resistance. They could not utilize the public works or defend the cities of their masters. So Britain was easy to be conquered in proportion as it was Romanized. A succession of calamities had diminished the population, already greatly reduced by the withdrawal of the dependents of the Romans into Gaul; and, when once the invitation or the concessions of the British chiefs had given the invaders a standing ground in the island, the occupation of the eastern half at least was accomplished in a short time.

### § 2. *Character of the Anglo-Saxon Conquest*

The middle of the fifth century is the approved date for the settlement. Kent seems to have been won by a single victory; the kingdom of Sussex was the result of the capture of Anderida; the history of Wessex is the long story of encroachments on the native people, who retired very gradually, but became stronger in resistance as they approached the mountains and the western sea, until a balance of forces compelled an armed peace. Mercia, the country of the Southern and Middle Angles, was an aggregation of many smaller settlements, each apparently the result of detached Anglian expeditions. Of the formation of the Northumbrian and East Anglian kingdoms we have scarcely any of those legendary data, which, whether historical or not, serve to give an individuality to the others; but such traditions as have been preserved lead to the belief that in both cases the kingdom was created by the union of smaller separate conquests.

The dislocated state of Britain seems, next to its desertion by the Romans, to have made way for the conquerors. The same weak obstinacy which had failed to combine against invasion, refused to accept the new dominion; and the Saxons, merciless by habit, were provoked by the sullen and treacherous attitude of their victims. The Britons fled from their homes: whom the sword spared, famine and pestilence devoured; the few that remained either refused or failed altogether to civilize the conquerors. For a century and a half after their arrival the Saxons remained heathen; for a century after their conversion they were repelled from communion with the Celts; the Britons retarded rather than promoted the religious change which the Spaniards forced on the Arian conquerors, and which Clovis voluntarily adopted to unite him with his Gallic subjects. This period, instead of being one of amalgamation, was one of divarication. There was room enough for both Britons and Saxons: the Roman cities

might have been homes for the one and the woods and broad pastures have furnished the others with their favorite prospects. But the cities went to ruin; Christianity became extinct, and all culture with it. There were still Roman roads leading to the walls and towers of empty cities; the Roman divisions of the land were conspicuous: the intrenched and fortified camps, the great villas of the princely families, churches, and burial-places, but they were become, before the days of Bede, mere haunted ruins, something like the mysterious fabrics which in Central America tell of the rule of a mighty race whose name is forgotten.

### § 3. *British and Roman Survivals*

It is not to be supposed that this desolation was uniform; in some of the cities there were probably elements of continuous life. London the mart of the merchants, York the capital of the North, and some others have a continuous political existence, although they wisely do not venture, like some of the towns of Southern France, to claim an unbroken succession from Roman municipalities. The new race found the convenience of ready-built houses and accumulated stores of material; and wherever the cities were spared, a portion at least of the city population must have continued also. In the country, too, especially toward the West and the debatable border, great numbers of Britons may have survived in servile or half-servile condition; some few of the greater men may have made, and probably did make, terms for themselves, especially in the districts appropriated by the smaller detachments of adventurers; and the public lands of the new kingdoms must have required native cultivators. But all these probabilities only bring out more strongly the improbability of any general commixture or amalgamation of the races. Centuries after the conquest the Briton by extraction was distinguished by his wergild from the man of the ruling race. It is impossible that such a commixture could have taken place without leaving its traces on the languages or the religion. The English of Alfred's time is, except where the common terms of ecclesiastical language come in, purely Germanic; British Christianity stood out against Saxon for a century after the death of Augustine; and the vestiges of Romano-British law which have filtered through local custom into the common law of England, as distinct from those which were imported in the Middle Ages through the scientific study of law or the insensible infection of cosmopolitan civilization, are infinitesimal. . . .

### § 4. *Two Important Results of the Conquest.*

If it were possible to form a clear idea of the amount of civilization which the invaders already possessed, or of the organization which they were to substitute for that which thus vanished before them, we should be better able to determine the effect which was produced on them by the process of conquest. But as it is, only two great generalizations seem possible. In the first place, conquest under the circumstances compelled colonization and migration. The wives and families were necessary to the comfort and continued existence of the settlements. It was not only that the attitude of the Britons forbade intermarriages; the Saxons, as all testimony has shown, declined the connubium of foreign races; they could not give to the strange woman the sacred prerogative of the German woman, let her cast their lots or rear their children. The tie of the *cognatio* and the *gens* was as strong as it had been of old; the new settlements were called by Gentile names, and these names involved the retention of the rights and duties of the *maegth*, the kindred. The invaders came in families and kindred, and in the full organization of their tribes; the three ranks of men, the noble, the freeman, and the *laet*. . . .

The process of migration and conquest must have produced royalty, and the important political appurtenances of royalty. The Saxons had no kings at home, but they created kingdoms in Britain. The testimony of tradition helps to confirm what is a sufficiently safe inference. According to the Chronicle the Brito-Welsh in A.D. 443 invited to Britain the Ethelings of the Angles; in A.D. 449 under two *heretogas*, Hengist and Horsa, the strangers came; in A.D. 455 Hengist and Aesc his son came to the kingdom. In A.D. 495 "came two *ealdormen* to Britain, Cerdic and Cynric"; in A.D. 519 they became kings of the West Saxons. In Northumbria and East Anglia, when the "proceres" had in long rivalry occupied provinces and fought battles, they set up out of the most noble a king over them. In each case the erection of the throne was probably the result of some great victory, or of the permanent securing of a definite territory; but the institution was not a transference of British royalty; the new kings are kings of the nations which they had led to conquest, not of those they had conquered. In each case the son is named with his father as sharing in the first assumption of the title, a recognition of the hereditary character which is almost the only mark distinguishing the German kingship from the elective chieftainship. The royal

houses thus founded assume a divine pedigree; all trace their origin to Woden; and when they become extinct the independence of their nation comes to an end.

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# CHAPTER III

## ADOPTION OF CHRISTIANITY AND UNIFICATION OF ENGLAND

WHATEVER may have been the nature of the Anglo-Saxon conquest and settlement, the immediate political result was the foundation of several petty tribal states among which there ensued three centuries of warfare for supremacy. Dull as the annals of these three hundred years are, the period was nevertheless one of great importance in the building of the English nation. The heathen conquerors were converted to Christianity, Britain was brought into close relations with Rome, a well-planned ecclesiastical system was founded, monks began there the work of civilization, the arts of peace flourished in spite of the conflicts, and learning increased. Doubtless the most vivid and interesting account of this period is to be found in John Richard Green's *Short History of the English People.*

### § 1. *Rise of Kent and Landing of Augustine*[1]

The conquest of the bulk of Britain was now complete (*ca.* 588). Eastward of a line which may be roughly drawn along the moorlands of Northumberland and Yorkshire, through Derbyshire and skirting the Forest of Arden to the mouth of the Severn, and thence by Mendip to the sea, the island had passed into English hands. From this time the character of the English conquest of Britain was wholly changed. The older wars of extermination came to an end, and as the invasion pushed westward in later times the Britons were no longer wholly driven from the soil, but mingled with their conquerors. A far more important change was that which was seen in the attitude of the English conquerors from this time toward each other. Freed to a great extent from the common pressure of the war against the Britons, their energies

[1] Green, *Short History of the English People*, pp. 26 ff. By permission of Mrs. John Richard Green.

turned to combats with one another, to a long struggle for overlordship which was to end in bringing about a real national unity.

The West-Saxons, beaten back from their advance along the Severn valley, and overthrown in a terrible defeat at Faddiley, were torn by internal dissensions, even while they were battling for life against the Britons. Strife between the two rival kingdoms of Bernicia and Deira in the north absorbed the power of the Engle in that quarter, till in 588 the strength of Deira suddenly broke down, and the Bernician king, Æthelric, gathered the two peoples into a realm which was to form the later kingdom of Northumbria. Amid the confusion of north and south the primacy among the conquerors was seized by Kent, where the kingdom of the Jutes rose suddenly into greatness under a king called Æthelberht, who before 597 established his supremacy over the Saxons of Middlesex and Essex, as well as over the English of East Anglia and of Mercia as far north as the Humber and the Trent.

The overlordship of Æthelberht was marked by a renewal of that intercourse of Britain with the Continent which had been broken off by the conquests of the English. His marriage with Bertha, the daughter of the Frankish King Charibert of Paris, created a fresh tie between Kent and Gaul. But the union had far more important results than those of which Æthelberht may have dreamed. Bertha, like her Frankish kinsfolk, was a Christian. A Christian bishop accompanied her from Gaul to Canterbury, the royal city of the kingdom of Kent; and a ruined Christian Church, the Church of St. Martin, was given them for their worship. The marriage of Bertha was an opportunity which was at once seized by the bishop, who at this time occupied the Roman See, and who is justly known as Gregory the Great. A memorable story tells us how, when but a young Roman deacon, Gregory had noted the white bodies, the fair faces, the golden hair of some youths who stood bound in the market-place of Rome. "From what country do these slaves come?" he asked the traders who brought them. "They are English, Angles!" the slave dealers answered. The deacon's pity veiled itself in poetic humor. "Not Angles but Angels," he said, "with faces so angel-like! From what country come they?" "They come," said the merchants, "from Deira." "De ira!" was the untranslatable reply, "aye, plucked from God's ire, and called to Christ's mercy! And what is the name of their king?" "Ælla," they told him; and Gregory seized on the words as of good omen. "Alleluia

shall be sung in Ælla's land!" he cried, and passed on, musing how the angel faces should be brought to sing it.

Only three or four years had gone by when the deacon had become bishop of Rome, and Bertha's marriage gave him the opening he sought. After cautious negotiations with the rulers of Gaul, he sent a Roman abbot, Augustine, at the head of a band of monks, to preach the gospel to the English people. The missionaries landed in 597 on the very spot where Hengist had landed more than a century before in the Isle of Thanet; and the king received them sitting in the open air on the chalk-down above Minster, where the eye nowadays catches miles away over the marshes the dim tower of Canterbury. He listened to the long sermon as the interpreters whom Augustine had brought with him from Gaul translated it. "Your words are fair," Æthelberht replied at last, with English good sense; "but they are new and of doubtful meaning"; for himself, he said, he refused to forsake the gods of his fathers, but he promised shelter and protection to the strangers. The band of monks entered Canterbury, bearing before them a silver cross with a picture of Christ, and singing in concert the strains of the litany of their Church. "Turn from this city, Lord," they sang, "Thine anger and wrath, and turn it from Thy holy house, for we have sinned." And then in strange contrast came the jubilant cry of the older Hebrew worship, the cry which Gregory had wrested in prophetic earnestness from the name of the Yorkshire king in the Roman market-place, "Alleluia."

It is strange that the spot which witnessed the landing of Hengist should be yet better known as the landing place of Augustine. But the second landing at Ebbsfleet was in no small measure the reversal and undoing of the first. "Strangers from Rome" was the title with which the missionaries first fronted the English king. The march of the monks as they chanted their solemn litany was, in one sense, the return of the Roman legions who had retired at the trumpet-call of Alaric. It was to the tongue and the thought not of Gregory only but of such men as his own Jutish fathers had slaughtered and driven over the sea that Æthelberht listened in the preaching of Augustine. Canterbury, the earliest royal city of the new England, became the centre of Latin influence. The Roman tongue became again one of the tongues of Britain, the language of its worship, its correspondence, its literature. But more than the tongue of Rome returned with Augustine. Practically his landing renewed the union with the Western world

which the landing of Hengist had all but destroyed. The new England was admitted into the older commonwealth of nations. The civilization, arts, letters, which had fled before the sword of the English conquest, returned with the Christian faith. The fabric of the Roman law indeed never took root in England, but it is impossible not to recognize the result of the influence of the Roman missionaries in the fact that the codes of customary English law began to be put into writing soon after their arrival.

As yet these great results were still distant; a year passed before Æthelberht yielded, and though after his conversion thousands of Kentish men crowded to baptism, it was years before he ventured to urge the under-kings of Essex and East Anglia to receive the creed of their overlord. The effort of Æthelberht, however, only heralded a revolution which broke the power of Kent forever. The tribes of mid-Britain revolted against his supremacy, and gathered under the overlordship of Rædwald of East Anglia. The revolution clearly marked the change which had passed over Britain. Instead of a chaos of isolated peoples, the conquerors were now, in fact, gathered into three great groups. The Engle kingdom of the north reached from the Humber to the Forth. The southern kingdom of the West-Saxons stretched from Watling Street to the Channel. And between these was roughly sketched out the great kingdom of mid-Britain, which, however its limits may vary, retained a substantial identity from the time of Æthelberht to the final fall of the Mercian kings. For the next two hundred years the history of England lies in the struggle of Northumbrian, Mercian, and West-Saxon kings to establish their supremacy over the general mass of Englishmen, and unite them in a single England.

### § 2. *Supremacy and Conversion of Northumbria*

In this struggle, the lead was at once taken by Northumbria, which was rising into a power that set all rivalry at defiance. Under Æthelfrith, who had followed Æthelric in 593, the work of conquest went on rapidly. In 603 the forces of the northern Britons were annihilated in a great battle at Dægsastan, and the rule of Northumbria was established from the Humber to the Forth. Along the west of Britain there stretched the unconquered kingdoms of Strathclyde and Cumbria, which extended from the river Clyde to the Dee, and the smaller British states which occupied what we now call Wales. Chester formed the link between





these two bodies; and it was Chester that Æthelfrith chose in 613 for his next point of attack. Some miles from the city two thousand monks were gathered in the monastery of Bangor, and after imploring in a three days' fast the help of Heaven for their country, a crowd of these ascetics followed the British army to the field. Æthelfrith watched the wild gestures and outstretched arms of the strange company as it stood apart, intent upon prayer, and took the monks for enchanters. "Bear they arms or no," said the king, "they war against us when they cry against us to their God," and in the surprise and rout which followed the monks were the first to fall.

The British kingdoms were now utterly parted from one another. By their victory at Deorham the West-Saxons had cut off the Britons of Devon and Cornwall from the general body of their race. By his victory at Chester, Æthelfrith broke this body again into two several parts, by parting the Britons of Wales from those of Cumbria and Strathclyde. From this time the warfare of Briton and Englishman died down into a warfare of separate English kingdoms against separate British kingdoms, of Northumbria against Cumbria and Strathclyde, of Mercia against modern Wales, of Wessex against the tract of British country from Mendip to the Land's End....

The greatness of Northumbria reached its height under Eadwine (617–633). Within his own dominions Eadwine displayed a genius for civil government which shows how completely the mere age of the conquest had passed away. With him began the English proverb so often applied to after kings, "A woman with her babe might walk scatheless from sea to sea in Eadwine's day." Peaceful communication revived along the deserted highways; the springs by the roadside were marked with stakes, and a cup of brass set beside each for the traveller's refreshment. Some faint traditions of the Roman past may have flung their glory round this new "Empire of the English"; some of its majesty had at any rate come back with its long-lost peace. A royal standard of purple and gold floated before Eadwine as he rode through the villages; a feather-tuft attached to a spear, the Roman tufa, preceded him as he walked through the streets. The Northumbrian king was, in fact, supreme over Britain as no king of English blood had been before. Northward his frontier reached the Forth, and was guarded by a city which bore his name, Edinburgh, Eadwine's burgh, the city of Eadwine. Westward, he was master of Chester, and the fleet he equipped there subdued

the isles of Anglesey and Man. South of the Humber he was owned as overlord by the whole English race, save Kent; and even Kent was bound to him by his marriage with its king's sister.

With the Kentish queen came Paulinus, one of Augustine's followers, whose tall, stooping form, slender aquiline nose, and black hair falling round a thin worn face, were long remembered in the north; and the Wise Men of Northumbria gathered to deliberate on the new faith to which Paulinus and his queen soon converted Eadwine. To finer minds its charm lay in the light it threw on the darkness which encompassed men's lives, the darkness of the future as of the past. "So seems the life of man, O king," burst forth an aged Ealdorman, "as a sparrow's flight through the hall when you are sitting at meat in winter-tide, with the warm fire lighted on the hearth, but the icy rain-storm without. The sparrow flies in at one door and tarries for a moment in the light and heat of the hearth-fire, and then flying forth from the other, vanishes into the wintry darkness whence it came. So tarries for a moment the life of man in our sight; but what is before it, what after it, we know not. If this new teaching tells us aught certainly of these, let us follow it." Coarser argument told on the crowd. "None of your people, Eadwine, have worshipped the gods more busily than I," said Coifi the priest, "yet there are many more favored and more fortunate. Were these gods good for anything, they would help their worshippers." Then, leaping on horseback, he hurled his spear into the sacred temple at Godmanham, and with the rest of the Witan embraced the religion of the king. . . .

### § 3. *The Irish Church and the Synod of Whitby*

It was not the Church of Paulinus which in after years nerved Oswald to the struggle for the cross, when he succeeded to the torn kingdom of Northumbria. Paulinus had fled from Northumbria at Eadwine's fall; and the Roman Church in Kent shrank into inactivity before the heathen reaction. Its place in the conversion of England was taken by missionaries from Ireland. To understand, however, the true meaning of the change, we must remember that before the landing of the English in Britain, the Christian Church comprised every country, save Germany, in Western Europe, as far as Ireland itself. The conquest of Britain by the pagan English thrust a wedge of heathendom into the heart of this great communion, and broke it into two unequal

parts. On the one side lay Italy, Spain, and Gaul, whose churches owned obedience to the See of Rome, on the other the Church of Ireland. But the condition of the two portions of Western Christendom was very different. While the vigor of Christianity in Italy and Gaul and Spain was exhausted in a bare struggle for life, Ireland, which remained unscourged by invaders, drew from its conversion an energy such as it has never known since.

Christianity had been received there with a burst of popular enthusiasm, and letters and arts sprang up rapidly in its train. The science and Biblical knowledge which fled from the Continent took refuge in famous schools, which made Durrow and Armagh the universities of the West. The new Christian life soon beat too strongly to brook confinement within the bounds of Ireland itself. Patrick, the first missionary of the island, had not been half a century dead when Irish Christianity flung itself with a fiery zeal into battle with the mass of heathenism which was rolling in upon the Christian world. Irish missionaries labored among the Picts of the Highlands and among the Frisians of the northern seas. An Irish missionary, Columban, founded monasteries in Burgundy and the Apennines. The canton of St. Gall still commemorates in its name another Irish missionary before whom the spirits of flood and fell fled wailing over the waters of the Lake of Constance. For a time it seemed as if the course of the world's history was to be changed, as if the older Celtic race that Roman and German had swept before them had turned to the moral conquest of their conquerors, as if Celtic and not Latin Christianity was to mould the destinies of the churches of the West.

On a low island of barren gneiss-rock off the west coast of Scotland an Irish refugee, Columba, had raised the famous monastery of Iona. Oswald in youth found refuge within its walls, and on his accession to the throne of Northumbria he called for missionaries from among its monks. The first despatched in answer to his call obtained little success. He declared on his return that among a people so stubborn and barbarous success was impossible. "Was it their stubbornness or your severity?" asked Aidan, a brother sitting by; "did you forget God's word to give them the milk first and then the meat?" All eyes turned on the speaker as fittest to undertake the abandoned mission, and Aidan sailing at their bidding, fixed his bishop's stool or see in the island peninsula of Lindisfarne. Thence, from a monastery which gave to the spot its after name of Holy Island, preachers

poured forth over the heathen realms. Boisil guided a little troop of missionaries to the valley of the Tweed. Aidan himself wandered on foot preaching among the peasants of Bernicia. The new religion served as a prelude to the Northumbrian advance.

If Oswald was a saint, he was none the less resolved to build up again the realm of Eadwine. Having extended his supremacy over the Britons of Strathclyde and won the submission of the Lindiswaras, he turned to reassert his supremacy over Wessex. The reception of the new faith became the mark of submission to his overlordship. A preacher, Birinus, had already penetrated from Gaul into Wessex; in Oswald's presence its king received baptism, and established with his assent a see for his people in the royal city of Dorchester on the Thames. Oswald ruled as wide a realm as his predecessor; but for after times the memory of his greatness was lost in the legends of his piety. A new conception of kingship began to blend itself with that of the warlike glory of Æthelfrith or the wise administration of Eadwine. The moral power which was to reach its height in Ælfred first dawns in the story of Oswald. In his own court the king acted as interpreter to the Irish missionaries in their efforts to convert his thegns. "By reason of his constant habit of praying or giving thanks to the Lord he was wont wherever he sat to hold his hands upturned on his knees." As he feasted with Bishop Aidan by his side, the thegn, or noble of his war-band, whom he had set to give alms to the poor at his gate, told him of a multitude that still waited fasting without. The king at once bade the untasted meat before him be carried to the poor and his silver dish be divided piecemeal among them. Aidan seized the royal hand and blessed it. "May this hand," he cried, "never grow old." . . .

The labors of Aidan, the victories of Oswald and Oswiu, seemed to have annexed England to the Irish Church. The monks of Lindisfarne, or of the new religious house whose foundation followed that of Lindisfarne, looked for their ecclesiastical tradition, not to Rome but to Ireland; and quoted for their guidance the instruction, not of Gregory but of Columba. Whatever claims of supremacy over the whole English Church might be pressed by the See of Canterbury, the real metropolitan of the Church as it existed in the north of England was the abbot of Iona. But Oswiu's queen brought with her from Kent the loyalty of the Kentish Church to the Roman See, and a Roman party at once formed about her. Her efforts were seconded by those of two young thegns whose love of Rome mounted to a passionate fanaticism.

The life of Wilfrid of York was a series of flights to Rome and returns to England, of wonderful successes in pleading the right of Rome to the obedience of the Church of Northumbria, and of as wonderful defeats. Benedict Biscop worked toward the same end in a quieter fashion, coming backward and forward across the sea with books and relics and cunning masons and painters to rear a great church and monastery at Wearmouth, whose brethren owned obedience to the Roman See. In 652 they first set out for a visit to the imperial city; and the elder Benedict soon returned to preach ceaselessly against the Irish usages. He was followed by Wilfrid, whose energy soon brought the quarrel to a head. The strife between the two parties rose so high at last that Oswiu was prevailed upon to summon in 664 a great council at Whitby, where the future ecclesiastical allegiance of England should be decided.

The points actually contested were trivial enough. Colman, Aidan's successor at Holy Island, pleaded for the Irish fashion of the tonsure, and for the Irish time of keeping Easter; Wilfrid pleaded for the Roman. The one disputant appealed to the authority of Columba, the other to that of St. Peter. "You own," said the king at last to Colman, "that Christ gave to Peter the keys of the kingdom of heaven — has He given such power to Columba?" The bishop could but answer "No." "Then will I rather obey the porter of Heaven," said Oswiu, "lest when I reach its gates he who has the keys in his keeping turn his back on me, and there be none to open." The importance of Oswiu's judgment was never doubted at Lindisfarne, where Colman, followed by the whole of the Irish-born brethren and thirty of their English fellows, forsook the See of Aidan and sailed away to Iona.

Trivial in fact as were the actual points of difference which severed the Roman Church from the Irish, the question to which communion Northumbria should belong was of immense moment to the after fortunes of England. Had the Church of Aidan finally won, the later ecclesiastical history of England would probably have resembled that of Ireland. Devoid of that power of organization which was the strength of the Roman Church, the Celtic Church in its own Irish home took the clan system of the country as the basis of Church government. Tribal quarrels and ecclesiastical controversies became inextricably confounded; and the clergy, robbed of all really spiritual influence, contributed no element save that of disorder to the state. Hundreds of wandering

bishops, as a vast religious authority wielded by hereditary chieftains, the disassociation of piety from morality, the absence of those larger and more humanizing influences which contact with a wider world alone can give: this is the picture which the Irish Church of later times presents to us. It was from such a chaos as this that England was saved by the victory of Rome in the Synod of Whitby.

### § 4. *Theodore and the Church in England*

The Church of England, as we know it to-day, is the work, so far as its outer form is concerned, of a Greek monk, Theodore of Tarsus, whom Rome, after her victory at Whitby, despatched in 668 as Archbishop of Canterbury, to secure England to her sway. Theodore's work was determined in its main outlines by the previous history of the English people. The conquest of the continent had been wrought either by races such as the Goths, who were already Christian, or by heathens like the Franks, who bowed to the Christian faith of the nations they conquered. To this oneness of religion between the German invaders of the Empire and their Roman subjects was owing the preservation of all that survived of the Roman world. The Church everywhere remained untouched. The Christian bishop became the defender of the conquered Italian or Gaul against his Gothic and Lombard conqueror, the mediator between the German and his subjects, the one bulwark against barbaric violence and oppression. To the barbarian, on the other hand, he was the representative of all that was venerable in the past, the living record of law, of letters, and of art. But in Britain priesthood and people had been exterminated together.

When Theodore came to organize the Church of England, the very memory of the older Christian Church which existed in Roman Britain had passed away. The first Christian missionaries, strangers in a heathen land, attached themselves necessarily to the courts of the kings, who were their first converts, and whose conversion was generally followed by that of their people. The English bishops were thus at first royal chaplains, and their diocese was naturally nothing but the kingdom. The kingdom of Kent became the diocese of Canterbury, and the kingdom of Northumbria the diocese of York. In this way two realms which are all but forgotten are commemorated in the limits of existing sees. That of Rochester represented till of late an obscure kingdom of West Kent, and the frontier of the original kingdom of

Mercia might be recovered by following the map of the ancient bishopric of Lichfield.

Theodore's first work was to order the dioceses; his second was to add many new sees to the old ones, and to group all of them around the one centre of Canterbury. All ties between England and the Irish Church were roughly broken. Lindisfarne sank into obscurity with the flight of Colman and his monks. The new prelates, gathered in synod after synod, acknowledged the authority of their one primate. The organization of the episcopate was followed during the next hundred years by the development of the parish system. The loose system of the mission-station, the monastery from which priest and bishop went forth on journey after journey to preach and baptize, as Aidan went forth from Lindisfarne or Cuthbert from Melrose, naturally disappeared as the land became Christian. The missionaries became settled clergy. The holding of the English noble or landowner became the parish, and his chaplain the parish priest, as the king's chaplain had become the bishop, and the kingdom his diocese. A source of permanent endowment for the clergy was found at a later time in the revival of the Jewish system of tithes, and in the annual gift to Church purposes of a tenth of the produce of the soil; while discipline within the Church itself was provided for by an elaborate code of sin and penance in which the principle of compensation which lay at the root of the Teutonic legislation crept into the relations between God and the soul.

In his work of organization, in his increase of bishoprics, in his arrangement of dioceses, and the way in which he grouped them around the See of Canterbury, in his national synods and ecclesiastical canons, Theodore was unconsciously doing a political work. The old divisions of kingdoms and tribes about him, divisions which had sprung for the most part from mere accidents of the conquest, were fast breaking down. The smaller states were by this time practically absorbed by the three larger ones, and of these three Mercia and Wessex had for a time bowed to the overlordship of Northumbria. The tendency to national unity which was to characterize the new England had thus already declared itself; but the policy of Theodore clothed with a sacred form and surrounded with divine sanctions a unity which as yet rested on no basis but the sword.

The single throne of the one primate at Canterbury accustomed men's minds to the thought of a single throne for their one temporal overlord at York, or, as in later days, at Lichfield, or at

Winchester. The regular subordination of priest to bishop, of bishop to primate, in the administration of the Church, supplied a mould on which the civil organization of the State quietly shaped itself. Above all, the councils gathered by Theodore were the first of all national gatherings for general legislation. It was at a much later time that the Wise Men of Wessex, or Northumbria, or Mercia, learned to come together in the Witenagemot of all England. It was the ecclesiastical synods which by their example led the way to our national parliament, as it was the canons enacted in such synods which led the way to a national system of law. . . .

### § 5. *Bæda, the Father of English Learning*

While the two southern kingdoms (Mercia and Wessex) were wasting their energies in a desperate struggle, Northumbria had set aside its efforts at conquest for the pursuits of peace. Under the reigns of Ecgfrith's successors, Aldfrith the Learned and the four kings who followed him, the kingdom became in the middle of the eighth century the literary centre of Western Europe. No schools were more famous than those of Jarrow and York. The whole learning of the age seemed to be summed up in a Northumbrian scholar. Bæda — the Venerable Bede, as later times styled him — was born in 673, nine years after the Synod of Whitby, on ground which passed a year later to Benedict Biscop as the site of the great abbey which he reared by the mouth of the Wear. His youth was trained and his long tranquil life was wholly spent in an off-shoot of Benedict's house which was founded by his friend Ceolfrid. Bæda never stirred from Jarrow. "I have spent my whole life in the same monastery," he says, "and while attentive to the rule of my order and the service of the Church my constant pleasure lay in learning, or teaching, or writing." The words sketch for us a scholar's life, the more touching in its simplicity that it is the life of the first great English scholar.

The quiet grandeur of a life consecrated to knowledge, the tranquil pleasure that lies in learning and teaching and writing, dawned for Englishmen in the story of Bæda. While still young he became teacher; and six hundred monks besides strangers that flocked thither for instruction formed his school of Jarrow. It is hard to imagine how among the toils of the schoolmaster and the duties of the monk Bæda could have found time for the composition of the numerous works that made his name famous in





the west. But materials for study had accumulated in Northumbria through the journeys of Wilfrid and Benedict Biscop and the libraries which were forming at Wearmouth and York. The tradition of the old Irish teachers still lingered to direct the young scholar into that path of scriptural interpretation to which he chiefly owed his fame. Greek, a rare accomplishment in the west, came to him from the school which the Greek archbishop Theodore founded beneath the walls of Canterbury. His skill in the ecclesiastical chant was derived from a Roman cantor whom Pope Vitalian sent in the train of Benedict Biscop. Little by little the young scholar thus made himself master of the whole range of the science of his time; he became, as Burke rightly styled him, "the father of English learning." The tradition of the older classic culture was first revived for England in his quotations of Plato and Aristotle, of Seneca and Cicero, of Lucretius and Ovid. Virgil cast over him the same spell that he cast over Dante; verses from the *Æneid* break his narratives of martyrdoms, and the disciple ventures on the track of the great master in a little eclogue descriptive of the approach of spring.

His work was done with small aid from others. "I am my own secretary," he writes; "I make my own notes. I am my own librarian." But forty-five works remained after his death to attest his prodigious industry. In his own eyes and those of his contemporaries the most important among these were the commentaries and homilies upon various books of the Bible which he had drawn from the writings of the Fathers. But he was far from confining himself to theology. In treatises compiled as text-books for his scholars, Bæda threw together all that the world had then accumulated in astronomy and meteorology, in physics and music, in philosophy, grammar, rhetoric, arithmetic, medicine. But the encyclopædic character of his researches left him in heart a simple Englishman. He loved his own English tongue; he was skilled in English song; his last work was a translation into English of the Gospel of St. John, and almost the last words that broke from his lips were some English rimes upon death.

But the noblest proof of his love of England lies in the work which immortalizes his name. In his *Ecclesiastical History of the English Nation*, Bæda became the first English historian. All that we really know of the century and a half that follows the landing of Augustine we know from him. Wherever his own personal observation extended, the story is told with admirable detail and force. He is hardly less full or accurate in the portions which

he owed to his Kentish friends, Albinus and Nothelm. What he owed to no informant was his own exquisite faculty of story-telling, and yet no story of his own telling is so touching as the story of his death. Two weeks before the Easter of 735 the old man was seized with an extreme weakness and loss of breath. He still preserved, however, his usual pleasantness and good humor, and in spite of prolonged sleeplessness continued his lectures to the pupils about him. Verses of his own English tongue broke from time to time from the master's lips — rude rimes that told how before the "need-fare," Death's stern "must-go," none can enough bethink him what is to be his doom for good or ill. The tears of Bæda's scholars mingled with his song. "We never read without weeping," writes one of them. So the days rolled on to Ascension-tide, and still master and pupils toiled at their work, for Bæda longed to bring to an end his version of St. John's Gospel into the English tongue, and his extracts from Bishop Isidore. "I don't want my boys to read a lie," he answered those who would have had him rest, "or to work to no purpose after I am gone."

A few days before Ascension-tide his sickness grew upon him, but he spent the whole day in teaching, only saying cheerfully to his scholars, "Learn with what speed you may; I know not how long I may last." The dawn broke on another sleepless night and again the old man called his scholars round him and bade them write. "There is still a chapter wanting," said the scribe as the morning drew on, "and it is hard for thee to question thyself any longer." "It is easily done," said Bæda; "take thy pen and write quickly." Amid tears and farewells the day wore away to eventide. "There is yet one sentence unwritten, dear master," said the boy. "Write it quickly," bade the dying man. "It is finished now," said the little scribe at last. "You speak truth," said the master; "all is finished now." Placed upon the pavement, his head supported in his scholars' arms, his face turned to the spot where he was wont to pray, Bæda chanted the solemn "Glory to God." As his voice reached the close of his song he passed quietly away. . . .

### § 6. *Mercia and the Supremacy of Wessex*

Under Offa, whose reign from 758 to 796 covers with that of Æthelbald nearly the whole of the eighth century, a middle kingdom, Mercia, rose to a height unknown since the days of Wulfhere.

Years, however, had to pass before the new king could set about the recovery of Kent; and it was only after a war of three years that in 775 a victory at Otford gave it back to the Mercian realm. With Kent Offa doubtless recovered Sussex and Surrey, as well as Essex and London; and four years later a victory at Bensington completed the conquest of the district that now forms the shires of Oxford and Buckingham. For the nine years that followed, however, Mercia ventured on no further attempt to extend her power over her English neighbors. Like her rivals, she turned on the Welsh. Pushing after 779 over the Severn, whose upper course had served till now as the frontier between Briton and Englishman, Offa drove the king of Powys from his capital, which changed its old name of Pengwyrn for the significant English title of the town in the scrub or bush, Scrobsbyryg, or Shrewsbury. The border-line he drew after his inroad is marked by a huge earthwork which runs from the mouth of Wye to that of Dee, and is still called Offa's Dyke. A settlement of Englishmen on the land between this dyke and the Severn served as a military frontier for the Mercian realm.

Here, as in the later conquests of the Northumbrians and the West-Saxons, the older plan of driving off the conquered from the soil was definitely abandoned. The Welsh, who chose to remain, dwelt undisturbed among their English conquerors; and it was probably to regulate the mutual relations of the two races that Offa drew up the code of laws which bore his name. In Mercia as in Northumbria attacks on the Britons marked the close of all dreams of supremacy over the English themselves. Under Offa, Mercia sank into virtual isolation. The anarchy into which Northumbria sank after Eadberht's death never tempted him to cross the Humber; nor was he shaken from his inaction by as tempting an opportunity which presented itself across the Thames.

Wessex in 786 was torn by a fresh outbreak of anarchy. The strife between the rivals that disputed the throne was ended by the defeat of Ecgberht, the heir of Ceawlin's line and his flight to Offa's court. The Mercian king, however, used his presence not so much for schemes of aggrandizement as to bring about a peaceful alliance; and in 789 Ecgberht was driven from Mercia, while Offa wedded his daughter to the West-Saxon king Beorhtric. The true aim of Offa, indeed, was to unite firmly the whole of Mid-Britain, with Kent as its outlet towards Europe, under the Mercian crown, and to mark its ecclesiastical as well as its political indepen-

dence by the formation in 787 of an archbishopric of Lichfield as a check to the See of Canterbury in the south, and a rival to the See of York in the north.

But while Offa was hampered in his projects by the dread of the West-Saxons at home, he was forced to watch jealously a power which had risen to dangerous greatness over sea, the power of the Franks. Till now, the interests of the English people had lain wholly within the bounds of the Britain they had won. But at this moment our national horizon suddenly widened, and the fortunes of England became linked to the general fortunes of Western Christendom. It was by the work of English missionaries that Britain was first drawn into political relations with the Frankish court. The Northumbrian Willibrord, and the more famous West-Saxon Boniface or Winfrith, followed in the track of earlier preachers, both Irish and English, who had been laboring among the heathen of Germany, and especially among those who had now become subject to the Franks. The Frank king Pippin's connection with the English preachers led to constant intercourse with England; a Northumbrian scholar, Alcuin, was the centre of the literary revival at his court. Pippin's son Charles, known in after days as Charles the Great, maintained the same interest in English affairs. His friendship with Alcuin drew him into close relations with Northern Britain. Ecgberht, the claimant of the West-Saxon throne, had found a refuge with him since Offa's league with Beorhtric in 787. With Offa, too, his relations seem to have been generally friendly.

But the Mercian king shrank cautiously from any connection which might imply a recognition of Frankish supremacy. He had indeed good grounds for caution. The costly gifts sent by Charles to the monasteries of England as of Ireland showed his will to obtain an influence in both countries; he maintained relations with Northumbria, with Kent, with the whole English Church. Above all, he harbored at his court exiles from every English realm, — exiled kings from Northumbria, East Anglian thegns, fugitives from Mercia itself; and Ecgberht probably marched in his train when the shouts of the people and priesthood of Rome hailed him as Roman Emperor. When the death of Beorhtric in 802 opened a way for the exile's return to Wessex, the relations of Charles with the English were still guided by the dream that Britain, lost to the Empire at the hour when the rest of the western provinces were lost, should return to the Empire now that Rome had risen again to more than its old greatness





in the west; and the revolutions which were distracting the English kingdoms told steadily in his favor.

The years since Ecgberht's flight had made little change in the state of Britain. Offa's completion of his kingdom by the seizure of East Anglia had been followed by his death in 796; and under his successor, Cenwulf, the Mercian archbishopric was suppressed, and there was no attempt to carry further the supremacy of the Midland kingdom. Cenwulf stood silently by when Ecgberht mounted the West-Saxon throne, and maintained peace with the new ruler of Wessex throughout his reign. The first enterprise of Ecgberht, indeed, was not directed against his English but his Welsh neighbors. In 815 he marched into the heart of Cornwall, and after eight years of fighting, the last fragment of British dominion in the west came to an end. As a nation, Britain had passed away with the victories of Deorham and Chester; of the separate British peoples who had still carried on the struggle with the three English kingdoms, the Britons of Cumbria and of Strathclyde had already bowed to Northumbrian rule; the Britons of Wales had owned by tribute to Offa the supremacy of Mercia; the last unconquered British state of West Wales as far as the Land's End now passed under the mastery of Wessex.

While Wessex was regaining the strength it had so long lost, its rival in Mid-Britain was sinking into helpless anarchy. Within, Mercia was torn by a civil war which broke out on Cenwulf's death in 821; and the weakness which this left behind was seen when the old strife with Wessex was renewed by his successor Beornwulf, who in 825 penetrated into Wiltshire, and was defeated in a bloody battle at Ellandun. All England south of the Thames at once submitted to Ecgberht of Wessex, and East Anglia rose in a desperate revolt which proved fatal to its Mercian rulers. Two of its kings in succession fell fighting on East Anglian soil; and a third, Wiglaf, had hardly mounted the Mercian throne when his exhausted kingdom was again called on to encounter the West-Saxon. Ecgberht saw that the hour had come for a decisive onset. In 828 his army marched northward without a struggle; Wiglaf fled helplessly before it; and Mercia bowed to the West-Saxon overlordship. From Mercia Ecgberht marched on Northumbria; but half a century of anarchy had robbed that kingdom of all vigor, and pirates were already harrying its coast; its nobles met him at Dore in Derbyshire, and owned him as their overlord. The work that Oswiu and Æthelbald had failed to do was done, and the whole English

race in Britain was for the first time knit together under a single ruler. Long and bitter as the struggle for independence was still to be in Mercia and in the north, yet from the moment that Northumbria bowed to its West-Saxon overlord, England was made in fact if not as yet in name.

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# CHAPTER IV

## ALFRED THE GREAT AND ENGLISH LEARNING

THE triumph of the West-Saxons under Egbert marked the overlordship of a new line of kings, rather than the establishment of national unity. The work of breaking down the strong forces of independence which yet remained among the conquered states and of welding the tribal groups into an English people would have required many generations even if England could have had peace. But England was not to have peace. Even before Egbert's day, heathen Northmen from Norway and Denmark began to plunder the coasts of Europe and Britain. Before long, these piratical expeditions were transformed into systematic invasions, and in a long contest with the bold Northmen, Alfred the Great was forced to relinquish a large portion of his realm. Undaunted by his severe trials on the battlefield, however, Alfred devoted himself with great energy to the development of the arts of civilization in the dominions that remained to him. It is for this work, as well as for his heroic defence of national existence, that Alfred won an imperishable fame in English history.

### § 1. *Danish Havoc in England*[1]

The ruin that the Danes had wrought had been no mere material ruin. When they first appeared off her shores, England stood in the forefront of European culture; her scholars, her libraries, her poetry, had no rivals in the Western world. But all, or nearly all, of this culture had disappeared. The art and learning of Northumbria had been destroyed at a blow; and throughout the rest of the Danelaw the ruin was as complete. The very Christianity of Mid-Britain was shaken; the sees of Dunwich and Lindsey came to an end; at Lichfield and Elmham

[1] Green, *Conquest of England*, pp. 148 ff. By permission of Mrs. John Richard Green and Harper & Brothers, Publishers.

the succession of bishops became broken and irregular; even London hardly kept its bishop's stool. But its letters and civilization were more than shaken — they had vanished in the sack of the great abbeys of the Fen.

Even in Wessex, which ranked as the least advanced of the English kingdoms, Ælfred could recall that he saw, as a child, "how the churches stood filled with treasures and books, and there was also a great multitude of God's servants;" but this was "before it had all been ravaged and burned." "So clean was learning decayed among English folk," says the king, "that very few were there on this side Humber that could understand their rituals in English, or translate aught out of Latin into English, and I ween there were not many beyond the Humber. So few of them were there that I cannot bethink me of a single one south of Thames when I came to the kingdom." It was, in fact, only in the fragment of Mercia which had been saved from the invaders that a gleam of the old intellectual light lingered in the school which Bishop Werfrith had gathered round him at Worcester.

It is in his efforts to repair this intellectual ruin that we see Ælfred's conception of the work he had to do. The Danes had, no doubt, brought with them much that was to enrich the temper of the coming England, a larger and freer manhood, a greater daring, a more passionate love of personal freedom, better seamanship and a warmer love of the sea, a keener spirit of traffic, and a range of trade-ventures which dragged English commerce into a wider world. But their work of destruction threatened to rob England of things even more precious than these. In saving Wessex, Ælfred had saved the last refuge of all that we sum up in the word "civilization," of that sense of a common citizenship and nationality, of the worth of justice and order and good government, of the harmony of individual freedom in its highest form with the general security of society, of the need for a coöperation of every moral and intellectual force in the development both of the individual man and of the people as a whole, which England had for two centuries been either winning from its own experiences or learning from the tradition of the past.

### § 2. *Ælfred Seeks Learned Men*

It was because literature embodied what was worthiest in this civilization that Ælfred turned to the restoration of letters. He sought in Mercia for the learning that Wessex had lost. He made





the Mercian Plegmund Archbishop of Canterbury; Werfrith Bishop of Worcester, helped him in his own literary efforts, and two Mercian priests — Æthelstan and Werwulf — became his chaplains and tutors. But it was by example as well as precept that the king called England again to the studies it had abandoned. "What of all his troubles troubled him the most," he used to say, "was that, when he had the age and ability to learn, he could find no masters." But now that masters could be had, he worked day and night. He stirred nowhere without having some scholar by him. He remained true, indeed, to his own tongue and his own literature. His memory was full of English songs, as he had caught them from singers' lips; and he was not only fond of repeating them, but taught them carefully to his children. But he knew that the actual knowledge of the world must be sought elsewhere. Before many years were over he had taught himself Latin, and was soon skilled enough in it to render Latin books into the English tongue. His wide sympathy sought for aid in this work from other lands than his own. "In old time," the king wrote sadly, "men came hither from foreign lands to seek for instruction and now, if we are to have it, we can only get it from abroad." He sought it among the West Franks and the East Franks; Grimbald came from St. Omer to preside over the new abbey he founded at Winchester, while John, the Old Saxon, was fetched — it may be from the Westphalian abbey of Corbey — to rule the monastery he set up at Athelney.

### § 3. *Asser in Royal Service*

A Welsh bishop was drawn with the same end to Wessex; and the account he has left of his visit and doings at the court brings us face to face with the king. "In those days," says Bishop Asser "I was called by the king from the western and farthest border of Britain, and came to Saxon-land; and when, in a long journey I set about approaching him, I arrived, in company with guides of that people, as far as the region of the Saxons, who lie on the right hand of one's road, which in the Saxon tongue is called Sussex. There for the first time I saw the king in the king's house, which is named Dene. And when I had been received by him with all kindness, he began to pray me earnestly to devote myself to his service, and be of his household, and to leave for his sake all that I possessed on the western side of Severn, promising to recompense me with greater possessions."

Asser, however, refused to forsake his home, and Ælfred was forced to be content with a promise of his return six months after. "And when he seemed satisfied with this reply, I gave him my pledge to return in a given time, and after four days took horse again and set out on my return to my country. But after I had left him and reached the city of Winchester, a dangerous fever laid hold of me, and for twelve months and a week I lay with little hope of life. And when at the set time I did not return to him as I had promised, he sent messengers to me to hasten my riding to him, and seek for the cause of my delay. But, as I could not take horse, I sent another messenger back to him to show him the cause of my tarrying, and to declare that if I recovered from my infirmity I would fulfil the promise I had made. When my sickness then had departed I devoted myself to the king's service on these terms, that I should stay with him for six months in every year, if I could, or, if not, I should stay three months in Britain and three months in Saxon-land. So it came about that I made my way to him in the king's house, which is called Leonaford, and was greeted by him with all honor. And that time I stayed with him in his court through eight months, during which I read to him whatever books he would that we had at hand; for it is his constant wont, whatever be the hindrances either in mind or body, by day and by night, either himself to read books aloud or to listen to others reading them."

### § 4. *Development of English Prose*

The work, however, which most told upon English culture was done, not by these scholars, but by Ælfred himself. The king's aim was simple and practical. He desired that "every youth now in England, that is freeborn and has wealth enough, be set to learn, as long as he is not fit for any other occupation, till they well know how to read English writing; and let those afterwards be taught in the Latin tongue who are to continue learning, and be promoted to a higher rank." For this purpose he set up, like Charles the Great, a school for the young nobles at his own court. Books were needed for them as well as for the priests, to the bulk of whom Latin was a strange tongue, and the king set himself to provide English books for these readers. It was in carrying out this simple purpose that Ælfred changed the whole front of English literature. In the paraphrase of Cædmon, in the epic of Beowulf, in the verses of Northumbrian singers, in

battle-songs and ballads, English poetry had already risen to a grand and vigorous life.

But English prose hardly existed. Since Theodore's time, theology had been the favorite study of English scholars, and theology naturally took a Latin shape. Historical literature followed Bæda's lead in finding a Latin vehicle of expression. Saints' lives, which had now become numerous, were as yet always written in Latin. It was from Ælfred's day that this tide of literary fashion suddenly turned. English prose started vigorously into life. Theology stooped to an English dress. History became almost wholly vernacular. The translation of Latin saint-lives into English became one of the most popular literary trades of the day. Even medicine found English interpreters. A national literature, in fact, sprang suddenly into existence which was without parallel in the Western world.

It is thus that in the literatures of modern Europe that of England leads the way. The Romance tongues — the tongues of Italy, Gaul, and Spain — were only just emerging into definite existence when Ælfred wrote. Ulfilas, the first Teutonic prose-writer, found no successors among his Gothic people; and none of the German folk across the sea were to possess a prose literature of their own for centuries to come. English, therefore, was not only the first Teutonic literature — it was the earliest prose literature of the modern world. And at the outset of English literature stands the figure of Ælfred. The mighty roll of books that fills our libraries opens with the translations of the king.

He took his books as he found them — they were, in fact, the popular manuals of his day: the compilation of *Orosius*, which was then the one accessible hand-book of universal history, the works of Bæda, the *Consolation of Bœthius*, the *Pastoral Book of Pope Gregory*. "I wondered greatly," he says, "that of those good men who were aforetime all over England, and who had learned perfectly these books, none would translate any part into their own language. But I soon answered myself, and said, 'They never thought that men would be so reckless and learning so fallen.' "

As it was, however, the books had to be rendered into English by the king himself, with the help of the scholars he had gathered round him. "When I remembered," he says, in his preface to the *Pastoral Book*, "how the knowledge of Latin had formerly decayed throughout England, and yet many could read English writing, I began, among other various and manifold troubles of

this kingdom, to translate into English the book which is called in Latin *Pastoralis*, and in English *Shepherd's Book*, sometimes word by word, and sometimes according to the sense, as I had learned it from Plegmund, my archbishop, and Asser, my bishop, and Grimbald, my mass-priest, and John, my mass-priest. And when I had learned it as I could best understand it, and as I could most clearly interpret it, I translated it into English."

Ælfred was too wise a man not to own the worth of such translations in themselves. The Bible, he urged, with his cool commonsense, had told on the nations through versions in their own tongues. The Greeks knew it in Greek. The Romans knew it in Latin. Englishmen might know it, as they might know the other great books of the world, in their own English. "I think it better, therefore, to render some books that are most needful for men to know into the language that we may all understand."

But Ælfred showed himself more than a translator. He became an editor for his people. Here he omitted, there he expanded. He enriched his first translation, the *Orosius*, by a sketch of new geographical discoveries in the north. He gave a West-Saxon form to his selections from Bæda. In one place he stops to explain his theory of government, his wish for a thicker population, his conception of national welfare as consisting in a due balance of the priest, the thegn, and the churl. The mention of Nero spurs him to an outbreak against abuses of power. The cold acknowledgment of a Providence by Bœthius gives way to an enthusiastic acknowledgment of the goodness of God. As Ælfred writes, his large-hearted nature flings off its royal mantle, and he talks as a man to men. "Do not blame me," he prays, with a charming simplicity, "if any know Latin better than I, for every man must say what he says and do what he does according to his ability."

### § 5. *The Old English Chronicle*

Among his earliest undertakings was an English version of Bæda's history; and it was probably the making of this version which suggested the thought of a work which was to be memorable in our literature. Winchester, like most other Episcopal monasteries, seems to have had its own Bishop's Roll, a series of meagre and irregular annals in the Latin tongue, for the most part mere jottings of the dates when West-Saxon bishop and West-Saxon king mounted throne and bishop-stool. The story of this

Roll and its aftergrowth has been ingeniously traced by modern criticism, and the general conclusions at which it has arrived seem probable enough. The entries of the Roll were posted up at uncertain intervals and with more or less accuracy from the days of the first West-Saxon bishop, Birinus. Meagre as they were, these earlier annals were historical in character and free from any mythical intermixture; but save for a brief space in Ine's day they were purely West-Saxon, and with the troubles which followed Ine's death they came to an end altogether.

It was not until the revival of West-Saxon energy under Ecgberht that any effort was made to take up the record again and to fill up the gap that its closing had made. But Swithun was probably the first to begin the series of developments which transformed this Bishop's Roll into a national history; and the clerk to whom he intrusted its compilation continued the Roll by a series of military and political entries to which we owe our knowledge of the reign of Æthelwulf, while he enlarged and revised the work throughout, prefixing to its opening those broken traditions of the coming of our fathers which, touched as they are here and there by mythical intermixture, remain the one priceless record of the conquest of Britain.

It was this Latin chronicle of Swithun's clerk that Ælfred seems to have taken in hand about 887, and whose whole character he changed by giving it an English form. In its earlier portions he carried still further the process of expansion. An introduction dating from the birth of Christ, drawn from the work of Bæda, was added to its opening, and entries from the same source were worked into the after-annals. But it was where Swithun's work ended that Ælfred's own work really began, for it is from the death of Æthelwulf that the Roll widens into a continuous narrative — a narrative full of life and originality, whose vigor and freshness mark the gift of a new power to the English tongue.

The appearance of such a work in their own mother-speech could not fail to produce a deep impression on the people whose story it told. With it English history became the heritage of the English people. Bæda had left it accessible merely to noble or priest; Ælfred was the first to give it to the people at large. Nor was this all. The tiny streams of historic record, which had been dispersed over the country at large, were from this time drawn into a single channel. The Chronicle — for from this time we may use the term by which the work has become famous — served even more than the presence of the Dane to put an end to

the existence of distinct annals in Northumbria and Mercia, and to help on the progress of national unity by reflecting everywhere the same national consciousness.

When his work on Bæda was finished, Ælfred, it is thought, began his translation of the *Consolation of Bœthius;* and it is not improbable that the metrical translation of the Metra of Bœthius was also from his hand. From philosophy and this effort at poetry he turned to give to his people a book on practical theology. As far as we know, the translation of the *Pastoral Rule of Pope Gregory* was his last work, and of all his translations it was the most carefully done. It is only as we follow the king in the manifold activity of his life that we understand his almost passionate desire for that "stillness" which was essential to his work. But it was only by short spaces that the land was "still," and once more Ælfred's work of peace was to be broken off by a renewal of the old struggle.

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# CHAPTER V

## THE REIGN OF CNUT

THOUGH Alfred's successors wrested from the Danes the English territory which had been lost, they were not able to establish a stable and permanent government strong enough to resist all attacks on national independence. Toward the close of the tenth century the Danes began to harry and invade the land in their old fashion. For a time they were bought off with heavy grants of money, but they were bent on conquest. In 1016 Edmund Ironside, badly supported by his own followers, was forced to share his kingdom with the Danish leader Cnut, and, as the English king died in the same year, the latter was able to make himself master of the country.

### § 1. *Accession of Cnut and Settlement of his Kingdom* [1]

Immediately after the death of Eadmund, his powerful vassal, Cnut, summoned the bishops, ealdormen, thanes, and all the chief men of England to a great assembly at London. On their appearance before him, as if distrustful of his own memory, he desired those who were witnesses of what had passed between him and Eadmund, when they agreed to divide the kingdom, to declare what had been said regarding the brothers and sons of the latter; whether in the case of his surviving Eadmund, the throne should devolve on him or on them. The base and selfish courtiers immediately declared on oath that Eadmund, neither in his lifetime nor when at the point of death, had ever designed any portion of his kingdom for his brothers; but that Cnut, according to the known will of Eadmund, should aid and support his children until they were of age to assume the reins of government.

[1] Lappenberg, *A History of England under the Anglo-Saxon Kings*, Vol. II, pp. 196 ff.

This declaration of the exclusion of the brothers was, at a time when the pretensions of minors to the throne were seldom regarded, all that Cnut required in order to be acknowledged king of all England. With few exceptions, the persons assembled swore to choose him for their king, humbly to obey him, and to pay tribute to his army; and, having received his pledge given with his naked hand, and the oaths of the Danish chiefs, they treated with contempt the brothers and sons of Eadmund and declared them unworthy ever to ascend the throne. Of these the clito Eadwig, the highly revered brother of Eadmund, was pronounced worthy of banishment; but Cnut, who naturally feared him as a rival above all his brothers, lost no time in deliberating with Eadric as to the readiest means of destroying him. Eadric hereupon introduced to Cnut, as a fitting instrument, a certain nobleman named Æthelweard, to whom a great reward was offered for the head of the prince, but who, while expressing his readiness, had no intention to perpetrate the deed. The prince, therefore, for that time, escaped with life.

After a short interval, in the beginning of the following year, the election of Cnut took place at London, to which the vassals from the remotest parts were summoned. Having entered into the customary engagements with the nobles and people, and exchanged oaths of lasting friendship and oblivion of all former enmities, he ordained a new division of the kingdom. From the few ealdormen, whose names have been transmitted to us, it would seem that, even in the last years of Æthelred, the division of the country into a number of small provinces had been thought disadvantageous; but Cnut went further in the work of reform by dividing England into four parts only. Of these he reserved Wessex for his own immediate government, Eadric retained Mercia, East Anglia was assigned to Thorkell, who had espoused Eadgyth, the widow of the ealdorman Ulfcytel; Northumbria was bestowed on Eric, the former jarl of Norway.

### § 2. *Cnut and his Rivals*

A series of measures was next adopted for the security of Cnut against the members of the legitimate royal family. The æthel-ing Eadwig, against whom a decree of banishment had already been pronounced by the Witan at London, was declared an outlaw, as well as another Eadwig, probably a relation of the royal house, who, for reasons with which we are unacquainted, was





called the "king of the churls or peasants." The two sons Eadmund, Eadward and Eadmund, the eldest scarcely t years old, were sent by Cnut to his half-brother Olaf, king Sweden, who, it seems, would neither take charge of guests w might one day involve him in difficulties, nor, yielding to the wish and, as it is said, secret requests of Cnut, cause them to be mu dered. The children were, therefore, sent to Stephen, king Hungary, the brother-in-law, by his wife Gisela, of the Germ king and emperor, Henry the Second, who, as well as Stephe was distinguished by the title of "Saint."

Cnut had now removed his most dangerous enemies from En land. Olaf of Norway (if the poetic sagas of Snorre have a historic foundations), who, after the death of Eadmund, afford succor to his brothers, had been beaten back, and over the re of the north the power of Cnut was supreme, either direct or through his relations. The chief danger threatened him fro Normandy, where Ælfgifu-Emma, the widow of Æthelred, a her two sons were residing with her brother Richard the Secon surnamed the Good. After so many deeds of violence, the p icy of the Northern conqueror excites our astonishment, whi prompted him to offer his hand to the widow of the Anglo-Sax king, and, without consideration for his and her elder childre to promise the succession to those they might have in commo By the end of July this marriage was completed, one consequen of which seems to have been, besides a closer alliance with Du Richard, the adoption of some milder measures, as we find th Eadwig, "the king of the churls," made his peace with the kin

But Cnut could not consider himself secure while surround by so many powerful Anglo-Saxons, and in the same year caused Eadwig the ætheling to be murdered. Eadric of Merc also, who had so greatly facilitated his attainment to the thro of England, but was an object of hatred both to the Dan and Saxons, met with the fate he so richly merited. Duri the Christmas festival an altercation arose between Cnut a Eadric, when the latter, with the view apparently of obtaini some further rewards, exclaimed, "It was for you that I desert Eadmund, and from fidelity to you I afterwards destroyed him "Then you deserve death," answered the irritated monarch, "f treason against God and against me; for having slain your rightf sovereign and my sworn brother." Hereupon he summoned to h presence the jarl Eric, who was at hand, and who, on a word fro his master, raised his battle-axe and felled the traitor to the eart

His body being cast over the city wall, was there left unburied. At the same time, on mere suspicion, he caused to be slain Northman, the son of Leofwine the ealdorman, one of the chief of Eadric's adherents; Æthelweard, the son of Æthelmær the Great, and Brihtric, the son of Ælfheah. Northman's possessions were inherited by his brother Leofric, who long enjoyed the favor of Cnut. One motive for the destruction of so many Anglo-Saxons may have been the necessity of rewarding the Danish warriors with lands, and thereby fixing them in England. On the other hand, all those Anglo-Saxons who, by treason or weakness, had contributed to the overthrow of the old dynasty, were with great rigor banished by Cnut from his presence, and even from the kingdom, as useless and dangerous. A heavy Danegeld of seventy-two thousand pounds which was imposed on the English, besides ten thousand five hundred pounds, to be paid by the citizens of London alone, closed the hostile measures of the new sovereign against England, where during the whole remaining part of his reign we meet only with one trace of disturbance caused by the natives. After the above-mentioned oppressive tax was paid, Cnut sent his fleet of about fifty ships back to Denmark.

### § 3. *Cnut as Ruler*

A remarkable change in the government of Cnut is at this time observable: we perceive him, if not a ruler to be compared with Charles the Great, yet a conqueror who was not hated, and under whom the people were probably happier than they had latterly been under their native sovereigns. The stern warrior appears from this time as a provident and wise ruler, capable of valuing and promoting and profiting by all the blessings of peace. The legal state of the country was settled in a great witenagemot at Oxford, and the legislation as it had been in the days of King Eadgar adopted as the model. The laws of Eadgar had shown particular regard to the Danes dwelling in England, while in those of Æthelred, as far as we are acquainted with them, similar provisions do not appear; they may even have contained enactments by which the customary laws of that nation were infringed. Cnut, moreover, devoted the greatest attention to the administration of the laws, and in pursuance of this object frequently journeyed through his English states from one boundary to another, attended by his counsellors and scribes. As a result of these iudicial labors may be regarded the numerous laws enacted

by Cnut for the Anglo-Saxons, both ecclesiastical and secular, among the latter of which have been reckoned a collection of provisions relative to the royal forests and the chase. In these it is particularly striking with what care their distinctive rights are preserved to the Anglo-Saxons and their several provinces, as well as to the Danes, to whom no legal favor appears to have been shown, and how everything seems to have been done to satisfy the pretensions of the clergy. In which year of Cnut's reign these laws were published at Winchester is, according to the custom of that age, not specified, and few, if any, attempts have since been made to ascertain it. They do not, however, appear to have been composed in the first years of his reign, and are, therefore, not to be confounded with the before-mentioned confirmation of Eadgar's laws, as may be inferred from their preamble, which shows them to be posterior to the reconquest of Norway in 1028, as well as from the reintroduction of St. Peter's penny.

### § 4. *Cnut and his Military System*

With greater probability may be reckoned among the earlier labors of Cnut the composition of the *Witherlags Ret*, a court- or gild-law, framed for his standing army, as well as for the body-guards of his jarls. As the greater part of his army remained in England, the *Witherlags Ret* was there first established, and as the introduction of strict discipline among such a military community must precede all other ameliorations in the condition of the country, the mention of this law in its history ought not to be omitted. The immediate military attendants of a conqueror always exercise vast influence, and these originally Danish soldiers have at a later period, both as body-guards of the king and of the greater vassals, acted no unimportant part in the country. They were armed with axes, halberds, and swords inlaid with gold, and in purpose, descent, and equipment corresponded to the Warangian guard, in which the throne of the Byzantine emperors found its best security. In Cnut's time the number of these mercenaries was not very great, — being by some reckoned at three thousand, by others at six thousand, — but they were gathered under his banner from various nations, and consequently required the stricter discipline. Even a valiant Wendish prince, Gottschalk, the son of Udo, stayed long with Cnut in England, and gained the hand of a daughter of the royal house. Cnut himself appears rather as a sort of grand-master

of this military gild than as its commander, and it is said that, having in his anger slain one of the brotherhood in England, he submitted himself to its judgment in their assembly and paid a ninefold compensation. The degrading epithet of *nithing*, applied to an expelled member of the gild, is an Anglo-Saxon word, which at a later period occurs in a way to render it extremely probable that the gild-law of the royal house-carls was in existence after the Norman Conquest.

### § 5. *Cnut and the Church*

With the same prudence and the same success with which Cnut provided for the interests of the other classes, he protected also those of the clergy. Heathenism, which had held possession of many a lurking place in the popular belief of the Anglo-Saxons, and had again found entrance with the newly settled Danes, was strictly prohibited. Ecclesiastics were honored by him, many churches rebuilt, every monastery in England richly gifted, and some also in foreign countries, among which those of St. Omer's and Chartres were gladly surprised by costly presents; by similar ones the chapter at Bremen was induced to pray for him under the Christian name of Lambert, for Queen Emma and for his son, Harthacnut; Cologne also received from him splendid psalters and choral books. He instituted the anniversaries of the sainted King Eadward and of St. Dunstan, and the remains of Archbishop Ælfheah, who had been so barbarously murdered by his countrymen, he caused to be conveyed with the greatest pomp to Canterbury. In honor of St. Eadmund, the king and martyr, he caused the Benedictine monastery to be founded, or rather refounded at Bedericsworth, since called St. Edmundsbury, an undertaking through which, as well as by many of the measures above related, he might feel sure of gaining the good will of the Anglo-Saxons. The reëstablishment of St. Peter's penny was a step which greatly raised him in the estimation of the higher clergy, and without injuring him in the eyes of the people, who no longer regarded as a foreign foe a king who from choice lived in the midst of them, protected their rights, honored their saints, and cultivated their language. Even Danish bishoprics he conferred on English ecclesiastics, among which may be named Scania on Bernhard, Fionia on Reinhere, Seeland or Roskilde on Gerbrand: a proceeding the less extraordinary, as St. Olaf, king of Norway, and Olaf of Sweden had also invited from





England many excellent priests for the conversion of their subjects, as Sigefrith, Sigeward, and his brother's son Grimkil, Rodulf, Bernhard, and Wulfrith. . . .

### § 6. *Cnut's Journey to Rome and Letter to his People*

After some ten years' work in making sure his dominion, a period of tranquillity arrived in which Cnut was enabled to execute without apprehension the wish which he had long cherished and often postponed, of making a pilgrimage to Rome. In the latter half of the year 1026 he left Denmark, whence he appears to have proceeded to Flanders, where, at St. Omer's, he was seen, and his penitence admired by the encomiast of Queen Emma. We also meet with him at Namur, where he trusted himself to Count Albert only against hostages, but with whom he afterwards entered on terms of friendship. During his whole progress he gave noble proofs of his munificence. Hence, passing through France and Burgundy, he reached the holy city where, besides other immunities, he obtained from Pope John the Nineteenth the exemption of the Saxon or English school from all taxes and tolls. After having visited all the chapels and churches in Middle Italy, he passed his Easter at Rome, in order to be present at the coronation of his friend and ally the Emperor Conrad the Second. It is probable that the marriage of their respective children was here settled. Of the other benefits acquired for his people by this journey an ample account is given in the following letter, which he sent to England, while on his return to Denmark, by the hands of Living, abbot of Tavistock, and afterwards bishop of Crediton, and which we give entire as a picture of the age, and, perhaps, as a proof of an amended life as well as regal munificence.

"Cnut, king of all England and Denmark, and of part of Sweden, to Æthelnoth the metropolitan, and Ælfric of York, and to all bishops and primates, and to the whole nation of the English, both noble and ignoble, wishes health. I make known to you that I have lately been to Rome, to pray for the redemption of my sins, and for the prosperity of the kingdoms and peoples subject to my rule. This journey I had long ago vowed to God, though, through affairs of state and other impediments, had hitherto been unable to perform it; but I now humbly return thanks to God Almighty for having in my life granted me to yearn after the blessed apostles, Peter and Paul, and every sacred place within

and without the city of Rome, which I could learn of, and, according to my desire, personally to venerate and adore. And this I have executed chiefly because I had learned from wise men, that the holy apostle Peter had received from the Lord the great power of binding and loosing, and was key-bearer of the celestial kingdom; and I, therefore, deemed it extremely useful to desire his patronage before God.

"Be it now known to you, that there was a great assembly of nobles at the Easter celebration, with the Lord Pope John, and the Emperor Conrad, to wit, all the princes of the nations from Mount Gargano to the nearest sea, who all received me honorably, and honored me with magnificent presents. But I have been chiefly honored by the emperor with divers costly gifts, as well in golden and silver vases as in mantles and vestments exceedingly precious. I have therefore spoken with the emperor and the lord pope, and the princes who were there, concerning the wants of all my people, both English and Danes, that a more equitable law and greater security might be granted to them in their journey to Rome, and that they might not be hindered by so many barriers, nor harassed by unjust tolls; and the emperor and King Rudolf, who has the greater number of those barriers in his dominions, have agreed to my demands; and all the princes have engaged by their edict, that my men, whether merchants, or other travellers for objects of devotion, should go and return in security and peace, without any constraint of barriers or tolls.

"I then complained to the lord pope, and said, that it greatly displeased me, that from my archbishops such immense sums of money were exacted, when, according to usage, they visited the apostolic see to receive the pall; and it was decreed that such exactions should not thenceforth be made. And all that I have demanded for the benefit of my people from the lord pope, from the emperor, from King Rudolf and from the other princes, through whose territories our way lies to Rome, they have freely granted, and also confirmed their cessions by oath, with the witness of four archbishops and twenty bishops, and an innumerable multitude of dukes and nobles, who were present; I therefore render great thanks to God Almighty that I have successfully accomplished all that I desired, as I had proposed in my mind, and satisfied to the utmost the wishes of my people. Now then, be it known to you, that I have vowed, as a suppliant from henceforth to justify in all things my whole life to God, and to rule the kingdoms and peoples subjected to me justly and piously, to

maintain equal justice among all; and if, through the intemperance of my youth, or through negligence, I have done aught hitherto contrary to what is just, I intend with the aid of God to amend all. I therefore conjure and enjoin my counsellors, to whom I have intrusted the counsels of the kingdom, that from henceforth they in no wise, neither through fear of me nor favor to any powerful person, consent to, or suffer to increase any injustice in my whole kingdom: I enjoin also all sheriffs and 'gerefan' of my entire kingdom, as they would enjoy my friendship or their own security, that they use no unjust violence to any man, either rich or poor, but that every one, both noble and ignoble, enjoy just law, from which let them in no way swerve, neither for equal favor, nor for any powerful person, nor for the sake of collecting money for me, for I have no need that money should be collected for me by iniquitous exactions.

"I therefore wish it to be made known to you, that, returning by the same way that I departed, I am going to Denmark, for the purpose of settling, with the counsel of all the Danes, firm and lasting peace with those nations, which, had it been in their power, would have deprived us of our life and kingdoms; but were unable, God having deprived them of strength, who in his loving kindness preserves us in our kingdoms and honor, and renders naught the power of our enemies. Having made peace with the nations round us, and regulated and tranquillized all our kingdom here in the east, so that on no side we may have to fear war or enmities, I propose this summer, as soon as I can have a number of ships ready, to proceed to England; but I have sent this letter beforehand, that all the people of my kingdom may rejoice at my prosperity; for, as you yourselves know, I have never shrunk from laboring, nor will I shrink therefrom, for the necessary benefit of all my people. I therefore conjure all my bishops and ealdormen, by the fealty which they owe to me and to God, so to order that, before I come to England, the debts of all, which we owe according to the old law, be paid; to wit, plough-alms, and a tithe of animals brought forth during the year, and the pence which ye owe to St. Peter at Rome, both from the cities and villages; and, in the middle of August, a tithe of fruits, and at the feast of St. Martin, the first-fruits of things sown, to the church of the parish in which each one dwells, which is in English called ciric-sceat. If, when I come, these and others are not paid, he who is in fault shall be punished by the royal power severely and without any remission. Farewell."

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Anglo-Saxon times the central government of tl
ar as it was organized at all, was vested in the kin
l, or *Witan*. The treatment of this council by
an in his *Norman Conquest* is one of the best
able of the way in which the history of ancient in
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English political philosophy was permeated with li
or Freeman discovered a limited monarchy in th
period when the authority of kings depended c
r or custom; when no Englishman had ever th
constitutional limitations on the crown; and w
f modern political democracy were wholly impo
or practice. The account given below should
ith the treatment of the same subject in Mr. Ch
*axon Institutions*. In conjunction with this,
ould examine the evidence in support of his theor
r Freeman has brought together in an Appendi
ume of his work.

### § 1. *Composition of the Royal Council*[1]

ay be sure that every Teutonic freeman had a
mbly — the *Gemôt*, the *Gemeinde*, the *Ellhei-*

clashed his arms to express approval, or who joined in the unmistakable sound which expressed dissent, practically gave as efficient a vote as if he had solemnly walked out into a lobby. The Homeric *Agorê* is the type of every such Assembly, and the likeness of the Homeric *Agorê* may be seen in an English county-meeting to this day.[1]

The voice which the simple freeman, the ceorl, had in the Assembly of his mark, he would not lose in the Assembly of his shire, the *Scirgemôt*. The county court is to this day an assembly of all the freeholders of the shire. But the right of attending the Assembly of the shire would become really less valuable than the right of attending the Assembly of the mark. The larger the Assembly, the more distant the place of meeting, the more difficult, and therefore the more rare, does the attendance of individual members become, and the smaller is the importance of each individual member when he gets there. We cannot doubt that the Assemblies of the mark, of the shire, and of the kingdom all co-existed; but at each stage of amalgamation the competence of the inferior assembly would be narrowed.

We cannot doubt that every freeman retained in theory the right of appearing in the Assembly of the kingdom, no less than in the Assemblies of the mark and of the shire. Expressions are found which are quite enough to show that the mass of the people were theoretically looked on as present in the National Assembly and as consenting to its decrees. But such a right of attendance necessarily became purely nugatory. The mass of the people could not attend, they would not care to attend, they would find themselves of no account if they did attend. They would therefore, without any formal abrogation of their right, gradually cease from attending. The idea of representation had not yet arisen; those who did not appear in person had no means of appearing by deputy; of election or delegation there is not the slightest trace, though it might often happen that those who stayed away might feel that their rich or official neighbor who went would attend to their wishes and would fairly act in their interests. By this process an originally democratic assembly, without any formal exclusion of any class of its members, gradually shrank up into an aristocratic assembly.

I trust that I have shown in another work how, under closely

[1] This was written before the local government acts, which reorganized the old system of county administration.





analogous circumstances, the Federal Assembly of Achaia, legally open to every Achaian citizen, was practically attended only by those who were both rich and zealous, and how it often happened that the members of the inner body, the Senate, themselves alone formed the Assembly. In the same way an assembly of all the freemen of Wessex, when those freemen could not attend personally, and when they had no means of attending by representatives, gradually changed into an assembly attended by few or none but the king's thegns. The great officers of Church and State, ealdormen, bishops, abbots, would attend; the ordinary thegns would attend more laxly, but still in considerable numbers; the king would preside; a few leading men would discuss; the general mass of the thegns, whether they formally voted or not, would make their approval or disapproval practically felt; no doubt the form still remained of at least announcing the resolutions taken to any of the ordinary freemen whom curiosity had drawn to the spot; most likely the form still remained of demanding their ceremonial assent, though without any fear that the habitual "Yea, yea," would ever be changed for "Nay, nay." It is thus that, in the absence of representation, a democratic franchise, as applied to a large country, gradually becomes unreal or delusive.

A primary assembly, an *Ekklêsia*, a *Landesgemeinde*, is an excellent institution in a commonwealth so small as to allow of its being really worked with effect. But in any large community it either becomes a tumultuous mob, like the later Roman *Comitia* or the Florentine Parliament, or else it gradually shrinks up into an aristocratic body, as the old Teutonic assemblies did both in England and on the Continent. When the great statesmen of the thirteenth century, Earl Simon and King Edward, fully established the principle of representation, they did but bring back the old state of things in another shape. The ordinary freeman had gradually lost his right of personal attendance in the National Assembly; it was expedient and impossible to restore that right to him in its original shape; he may be considered as having in the thirteenth century legally surrendered it, and as having received in its stead the far more practical right of attending by his representatives.

Thus was formed that famous Assembly of our forefathers, called by various names the *Mycel Gemót* or *Great Meeting*, the *Witenagemót* or *Meeting of the Wise*, sometimes the *Mycel Getheaht* or *Great Thought*. But the common title of those who compose it is simply the *Witan*, the *Sapientes*, or *Wise Men*. In every

English kingdom we find the royal power narrowly limited by the necessity under which the king lay, of acting in all matters of importance by the consent and authority of his Witan; in other words, of his Parliament. As the other kingdoms merged in Wessex, the Witan of the other kingdoms became entitled to seats in the Gemót of Wessex, now become the great Gemót of the empire. But just as in the case of the Assemblies of the mark and the shire, so the Gemóts of the other kingdoms seem to have gone on as local bodies, dealing with local affairs, and perhaps giving a formal assent to the resolutions of the central body.

As to the constitution of these great councils in any English kingdom, our information is of the vaguest kind. The members are always described in the loosest way. We find the Witan constantly assembling, constantly passing laws, but we find no law prescribing or defining the constitution of the Assembly itself. We find no trace of representation or election; we find no trace of any property qualification; we find no trace of nomination by the crown, except in so far as all the great officers of the court and the kingdom were constantly present. On the other hand, we have seen that all the leading men, ealdormen, bishops, abbots, and a considerable body of other thegns, did attend; we have seen that the people as a body were in some way associated with the legislative acts of their chiefs, that those acts were in some sort the acts of the people themselves, to which they had themselves assented, and were not merely the edicts of superiors which they had to obey. There is no doubt that, on some particular occasions, some classes at least of the people did actually take a part in the proceedings of the National Council; thus the citizens of London are more than once recorded to have taken a share in the election of kings.

No theory that I know of will explain all these phenomena except that which I have just tried to draw out. This is, that every freeman had an abstract right to be present, but that any actual participation in the proceedings of the Assembly had, gradually and imperceptibly, come to be confined to the leading men, to the king's thegns, strengthened under peculiarly favorable circumstances, by the presence of exceptional classes of freemen, like the London citizens. It is therefore utterly vain for any political party to try to press the supposed constitution of our ancient National Councils into the service of modern political warfare. The Meeting of the Wise has not a word to utter for or against any possible reform bill. In one sense it was more





democratic than anything that the most advanced Liberal would venture to dream of; in another sense it was more oligarchic than anything that the most unbending Conservative would venture to defend. Yet it may in practice have fairly represented the wishes of the nation; and if so, no people ever enjoyed more complete political freedom than the English did in these early times. For the powers of the ancient Witenagemót surpassed beyond all measure the powers which our written law vests in a modern Parliament. In some respects they surpassed the powers which our conventional constitution vests in the House of Commons.

### § 2. *Power of Witan in Election and Deposition of Kings*

The king could do absolutely nothing without the consent of his Wise Men. First of all, it was from them that he derived his political being, and it was on them that he depended for its continuance. The Witan chose the king and the Witan could depose him. The power of deposition is a power which, from its very nature, can be exercised but rarely; we therefore do not find many kings deposed by act of Parliament either before or since the Norman Conquest. But we do find instances, both before and since that event, which show that, by the ancient constitution of England, the Witan of the land did possess the right of deposing the sovereign, and that on great and emergent occasions they did not shrink from exercising that right. I will not attempt to grapple with the confused history of Northumberland, where at one time kings were set up and put down almost daily. Such revolutions were doubtless as much the result of force as of any legal process; still we can hardly doubt that the legal forms were commonly observed, and sometimes we find it distinctly recorded that they were.

Let us confine ourselves to the better-attested history of the line of Cerdic. Five times, — we might more truly say six times, — thrice before and twice since the Norman Conquest, has the king of the West-Saxons or of the English been deprived of his kingly office by the voice of his Parliament. Sigeberht of Wessex, in the eighth century, was deposed by the vote of the General Assembly of his kingdom, and another king was elected in his stead. Æthelred the Second was deposed by one act of the legislature and restored by another. Harthacnut, in the like sort, was deposed, while still uncrowned, from his West-Saxon kingdom, though he was afterwards reëlected to the whole kingdom

of England. Edward the Second was deposed by Parliament; so was Richard the Second. At a later time the Parliament of England shrank from the formal deposition of James the Second, and took refuge in a theory of abdication which, though logically absurd, practically did all that was wanted. But the Parliament of Scotland had no such scruples, and that body, in full conformity with ancient principles, declared the crown of Scotland to be forfeited. In a land where everything goes by precedent, a right resting on a tradition like this, though its actual exercise may have taken place only five or six times in nine hundred years, is surely as well established as any other. Under our modern constitution the right is likely to remain dormant. The objects which in past times required the deposition of the king, if not from his office, at least from his authority, can now be obtained by a parliamentary censure of the prime minister, or in the extremest case by bringing an impeachment against him.

If the Witan could depose the king, still more undoubtedly did the Witan elect the king. It is strange how people's eyes are blinded on this subject. It is not uncommon to hear people talk about the times before and shortly after the Norman Conquest as if the Act for the Settlement of the Royal Succession had already been in force in those days. It is strange to hear a number of princes, both before and since the Conquest, popularly spoken of as the "usurpers," merely because they came to the crown in a different way from that which modern law and custom prescribe. It is strange that people who talk in this way commonly forget that their own principle, so far as it proves anything, proves a great deal more than they intend. If Harold, Stephen, John, were usurpers, Ælfred and Eadward the Confessor were usurpers just as much. Ælfred and Eadward, no less than John, succeeded by election to the exclusion of nephews whom the modern law of England would look upon as the undoubted heirs of the crown. All this sounds very strange to any one who understands our early history; but it may in some cases be the result of simple ignorance. It is stranger still to hear others talk as if hereditary succession, according to some particular theory of it, was a divine and eternal law which could not be departed from without sin. Those who talk in this way should at least tell us what the divine and immutable law of succession is, for in a purely historical view of things nearly every kingdom seems to have a law of succession of its own. Our forefathers, at any rate, knew nothing of such superstitions.





The ancient English kingship was elective. It was elective in the same sense in which all the old Teutonic kingdoms were elective. Among a people in whose eyes birth was highly valued, it was deemed desirable that the king should be the descendant of illustrious and royal ancestors. In the days of heathendom it was held that the king should come of the supposed stock of the gods. These feelings everywhere pointed to some particular house as the royal house, as the house whose members had a special claim on the suffrages of the electors. In every kingdom there was a royal family, out of which alone, under all ordinary circumstances, kings were chosen; but within that royal family the Witan of the land had a free choice. The eldest son of the last king would doubtless always have a preference; if he was himself at all worthy of the place, if his father's memory was at all cherished, he would commonly be preferred without hesitation, probably chosen without the appearance of any other candidate.

But a preference was all to which he was entitled, and he seems not to have been entitled even to a preference unless he was actually the son of a crowned king. If he were too young or otherwise disqualified, the electors passed him by and chose some worthier member of the royal family. Ælfred and Eadred were chosen in preference to the minor sons of elder brothers. Eadward the Confessor was chosen in preference to the absent son of an elder brother. At the death of Eadgar, when the royal family contained only minors to choose from, the electors were divided between the elder and the younger brother. Minors passed by at one time might or might not be elected at a later vacancy. Æthelwold, the son of Æthelred the First, who had been passed by in favor of his uncle Ælfred, was again passed by in Ælfred's death because no claim could compare with that of Eadward, the worthy son of the most glorious of fathers. The children of Eadmund were passed by in favor of their uncle Eadred, but on Eadred's death the choice fell on the formerly excluded Eadwig. And as a certain preference was acquired by birth, a certain preference was acquired by the recommendation of the late king. So Eadgar recommended his elder son Eadward to the electors; so Eadward the Confessor recommended Harold. Æthelwulf had long before attempted, by the help of a will confirmed by the Witan, to establish a peculiar law of succession, which soon broke down. But it is clear that a certain importance was attached to the wishes of a deceased and respected king as conveying a distinct preference. But it conveyed nothing more than a preference; the person who enjoyed

this advantage, whether by birth or nomination, could still be passed by without breach of constitutional right. From these principles it follows that, as any disqualified person in the royal family might be passed by, so, if the whole family were disqualified, the whole family might be passed by. That is to say, the election of Harold, the son of Godwine, the central point of this history, was perfectly good in every point of view. The earlier election of Cnut was equally good in point of form; only it was an election under *duresse* — *duresse* a little, but not much, stronger than that under which an English chapter elects its bishop.

### § 3. *Share of the Witan in the Government of the Realm*

An ancient English king was then, as his very title implied, not the father of his people, but their child, their creation. And the Assembly which had elected him, and which could depose him, claimed to direct him by its advice and authority in almost every exercise of the kingly power. Every act of government of any importance was done, not by the king alone, but by the king and his Witan. The great council of the nation had its active share even in those branches of government which modern constitutional theories mark out as the special domain of the executive. That laws were ordained and taxes imposed by the authority of the Witan, that they sat as the highest court for the trial of exalted and dangerous offenders, is only what we should look for from the analogy of modern times. It is more important to find that the king and his Witan, and not the king alone, concluded treaties, made grants of folkland, ordained the assemblage of fleets and armies, appointed and deposed the great officers of Church and State. Of the exercise of all these powers by the assembled Witan we shall find abundant examples in the course of this history.

Now these are the very powers which a modern House of Commons shrinks from directly exercising. These are the powers which, under our present system, Parliament prefers to intrust to ministers in whom it has confidence — ministers whom it virtually appoints, and whom it can virtually dismiss without any formal ceremony of deposition. And, in our present state of things, little or no harm and some direct good comes from Parliament preferring an indirect course of action on these subjects. But in an earlier state of things, a more direct agency of the Parliament or other National Assembly is absolutely necessary. The Assembly has to deal not with a ministry whom it can create and

destroy without any formal action, but with a personal king whom it has indeed elected and whom it can depose, but whose election and deposition are solemn national acts, his deposition indeed being the rarest and most extreme of all national acts. In such a state of things the power of the king may be strictly limited by law; but within the limits which the law prescribes to him he acts according to his own will and pleasure, or according to the advice of counsellors who are purely of his own choosing.

In such a state of things the king and the nation are brought face to face, and it is needful that the National Assembly should have a more direct control over affairs than is at all needful when the ingenious device of a responsible ministry is interposed between king and Parliament. Long after the days of our ancient Witenagemóts, in the days of Edward the Third, for instance, Parliament was consulted about wars and negotiations in a much more direct way than it is now. The control of Parliament over the executive is certainly not less effective now than it was then; but the nature of our present system makes it desirable that the control of Parliament should be exercised in a less direct way than it was then. Our present system avoids, above all things, all possibility of direct personal collision between Parliament and the sovereign. But such direct personal collisions form the staple of English history from the thirteenth century onwards. In earlier times we seldom come across any record of the debates, though we often know the determinations of our National Councils.

How far such collisions commonly took place in early times we have but small means of knowing. They were perhaps less to be expected than they were some centuries later. The Plantagenet kings had to deal with their Parliaments as with something external to themselves, something which laid petitions before them which they could accept or reject at pleasure. A struggle in those days was a struggle between the king and an united Parliament. Nowadays, as we all know, the struggle takes place within the walls of Parliament itself. But we can well believe that, in this respect as in so many others, the earliest times were really more like our own than the intermediate centuries were.

An ancient Witenagemót did not petition, it decreed; it confirmed the acts of the king which, without the assent of the Witan, had no validity; it was not a body external to the king, but a body of which the king was the head in a much more direct sense than

he could be said to be the head of a later mediæval Parliament. The king and his Witan acted together; the king could do nothing without the Witan, and the Witan could do nothing without the king; they were no external, half-hostile body; they were his own Council, surrounding and advising him. Direct collisions between the king on the one hand and an united Gemót on the other were not likely to be common. This is indeed mere conjecture, but it is a conjecture to which the phenomena of the case seem inevitably to lead us. But of the great powers of the Witenagemót, of its direct participation in all important acts of government, there can be no doubt at all. The fact is legibly written in every page of our early history.

### § 4. *Antiquity of English Liberties*

The vast increase of the power of the crown after the Norman Conquest, the gradual introduction of a systematic feudal jurisprudence, did much to lessen the authority and dignity of the National Councils. The idea of a nation and its chief, of a king and his counsellors, almost died away; the king became half despot, half mere feudal lord. England was never without National Assemblies of some kind or other, but from the Conquest in the eleventh century till the second birth of freedom in the thirteenth, our National Assemblies do not stand out in the same distinct and palpable shape in which they stand out both in earlier and in later times. Here again we owe our thanks to those illustrious worthies, from the authors of the Great Charter onwards, who, in so many ways, won back for us our ancient constitution in another shape. I have said that no political party can draw any support for its own peculiar theories from that obscurest of subjects, the constitution of the Witenagemót. But no lover of our historic liberties can see without delight how venerable a thing those liberties are, how vast and how ancient are the rights and powers of an English Parliament. Our ancient Gemóts enjoyed every power of a modern Parliament, together with some powers which modern Parliaments shrink from claiming. Even such a matter of detail as the special security granted to the persons of members of the two houses has been traced, and not without a show of probability, to an enactment which stands at the very front of English secular jurisprudence, the second among the laws ordained by our first Christian king and the Witan of his kingdom of Kent.





### § 5. *Importance of the Personal Character of the King*

As the powers of the Witan were thus extensive, as the king could do no important act of government without their consent, some may hastily leap to the conclusion that an ancient English king was a mere puppet in the hands of the National Council. No inference could be more mistaken. Nothing is clearer in our earlier history than the personal agency of the king in everything that is done, and the unspeakable difference between a good and a bad king. The truth is that in an early state of society almost everything depends on the personal character of the king. An able king is practically absolute; under a weak king the government falls into utter anarchy and chaos. Change the scene, as we shall presently do in our narrative, from the days of Eadgar to those of Æthelred; change it again from the long, dreary, hopeless reign of Æthelred to the few months of superhuman energy which form the reign of the hero Eadmund; compare the nine months of Harold with the two months which followed his fall, and we shall see how the whole fate of the nation turned upon the personal character of its sovereign.

With such witnesses before us, we can the better understand how our forefathers would have scouted the idea — if the idea had ever occurred to them — of risking the destiny of the nation on the accidents of strict hereditary succession, and how wisely they determined that the king must be, if not the worthiest of the nation, at any rate the worthiest of the royal house. The unhappy reign of Æthelred showed the bad side of even that limited application of the hereditary principle which was all that they admitted. Under her great kings, England had risen from her momentary overthrow to an imperial dominion. At home she possessed a strong and united government, and her position in the face of other nations was one which made her alliance to be courted by the foremost princes of Europe. The accession of the minor son of Eadgar, a child who, except in his crimes and vices, never went beyond childhood, dragged down the glorious fabric into the dust, so greatly did national welfare and national misfortune depend on the personal character of the king.

The king, it is true, could do nothing without his Witan, but as his Witan could do nothing without him, he was not a shadow or a puppet, but a most important personal agent. He was no more a puppet than the leader of the House of Commons is a puppet. We may be sure that the king and his immediate advisers always

had a practical initiative, and that the body of the Witan did little but accept or reject their proposals. We may be sure that a king fit for his place, an Ælfred or an Æthelstan, met with nothing that could be called opposition, but wielded the Assembly at his will. Princes invested with far smaller constitutional powers than those of an ancient English king have become the ruling spirits of commonwealths which denied them any sort of independent action.

When a great king sat upon the West-Saxon throne we may be sure that, while every constitutional form was strictly observed, the votes of the Witan were guided in everything by the will of the king. But when the king had no will, or a will which the Witan could not consent to, then of course the machine gave way and nothing was to be seen but confusion and every evil work. Again, the king was not only the first mover, he was also the main doer of everything. The Witan decreed, but it was the king who carried out their decrees. Weighty as was the influence of his personal character on the nature of the resolutions to be passed, its influence was weightier still on the way in which those resolutions were to be carried out. Under a good king, council and execution went hand in hand; under a weak or wicked king, there was no place found for either. Sometimes disgraceful resolutions were passed; sometimes wise and good resolutions were never carried into effect. The Witan under Æthelred sometimes voted money to buy off the Danes; sometimes they voted armies to fight against them; but, with Æthelred to carry out the decrees, it mattered little what the decrees were.

Add to all this the enormous influence which attached to the king from his having all the chief men of the land bound to him by the personal tie of thegnship. He was the *Cyne-hlaford*, at once the king of the nation and the personal lord of each individual. Though his grants of folkland and his nominations to the highest offices required the assent of the Witan, yet in these matters, above all, his initiative would be undoubted; the Witan had only to confirm and they would seldom be tempted to reject the proposals which the king laid before them. He was not less the fountain of honor and the fountain of wealth, because in the disposal of both he had certain decent ceremonies to go through. Add to all this, that in unsettled times there is a special chance, both of acts of actual oppression which the law is not strong enough to redress, and of acts of energy beyond the law which easily win popular condonation in the case of a victorious and beloved monarch.





Altogether, narrowly limited as were the legal powers of an ancient English king, his will, or lack of will, had the main influence on the destinies of the nation, and his personal character was of as much moment to the welfare of the State as the personal character of an absolute ruler.

### Bibliographical Note

Kemble, *Saxons in England*, Vol. II, chaps. i and vi, exaggerates the importance of the Witan. Stubbs, *Constitutional History of England*, chap. vi, based largely on Kemble. Chadwick, *Studies in Anglo-Saxon Institutions* (1905), chap. ix and Excursus IV.

# PART II

## FEUDALISM AND NATIONALISM

## CHAPTER I

### THE MEN OF LONDON AND THE CORONATION OF WILLIAM THE CONQUEROR

THE Norman Conquest is one of the most striking events in English history, and doubtless it constituted one of the greatest crises in that history, in so far as it brought England into closer contact with continental life and ecclesiastical polity and gave the nation a stronger and better-organized central government. It is difficult to determine, however, just what precise results are to be attributed to that Conquest. Life in town and country probably flowed along in the old course, and a strong king might have been evolved from among the contending princes after Edward the Confessor's death. Such speculation is nevertheless idle, as William of Normandy determined to secure the crown for himself, and, armed by the pope's sanction, he and his followers struck the first blow for the throne at the battle of Hastings. Not long afterwards the metropolis of the realm yielded to the conqueror.

### § 1. *The Conqueror's Preparations for the Capture of London*[1]

The men of London, whose forefathers had beaten back Swegen and Cnut, whose brothers had died around the standard of Harold, were not men to surrender their mighty city, defended by its broad river and its Roman walls, without at least meeting the invader in the field. William, master of Dover, Canterbury, and

[1] Freeman, *History of the Norman Conquest*, Vol. III, chap. xvi. By permission of the Delegates of the Clarendon Press, Oxford.





Winchester, now directed his march along the old Roman road, directly on the great city. He marched on, ravaging, burning, and slaughtering as he went, and drew near to the southern bank of the river. One account seems to describe him as occupying Westminster, — therefore as crossing the river, — as planting his military engines by St. Peter's minster, and as beginning, or at least threatening, a formal siege of the city. But nothing in the whole story is plainer than that William did not cross the river till long after. A more credible version represents him as sending before him a body of five hundred knights, whether simply to reconnoitre or in the hope of gaining anything by a sudden attack. The citizens sallied; a skirmish followed; the English were beaten back within the walls; the southern suburb of the city, Southwark, where Godwine had waited in his own house for the gathering of two memorable assemblies, was given to the flames. The pride of the citizens was supposed to be somewhat lowered by this twofold blow; but it is plain that William did not yet venture any direct attack on the city. His ships were far away, and the bridge of London would have been a spot even less suited for an onslaught of Norman cavalry than the hillside of Senlac. He trusted to the gradual working of fear and of isolation even on the hearts of those valiant citizens.

He kept on the right bank of the Thames, harrying as he went, through Surrey, Hampshire, and Berkshire, till at Wallingford a ford and a bridge supplied safe and convenient means of crossing for his army. He was now in the shire of the brave sheriff Godric, in a king's town, part of which seems to have been set aside as a sort of special barrack or garrison for the king's house-carls. But the stout heart of the Lord of Fifhide had ceased to beat; sheriff and house-carls alike had dealt their last blow for England on the far South Saxon hill. No force was ready on the bridge of Wallingford to bar the approach of the invader. There is even reason to think that the chief man of the place, perhaps the sheriff of the neighboring shire of Oxford, Wiggod of Wallingford, favored the progress of the invader. He had been in high favor with Eadward, and was afterwards in high favor with William, and a son of his lived to die fighting for William in a more worthy cause. However this may be, William passed the great border stream unhindered, and for the first time set foot on Mercian soil.

He was now on the old battle-ground of Bensington, whence Angle and Saxon, now being fast united in one common bondage, had in other days fought out their border quarrels. He passed

beneath the hills, so marked in the distance by their well-known clumps, where the Briton had, in earlier days, bid defiance to the conquerors of the world. He was now within the diocese whence the voice of England had driven his unworthy countryman, the Norman Ulf, the bishop who did naught bishoplike. He was now within the earldom which his own hand had made vacant, when he avenged the fall of his Spanish horse by the fall of a son of Godwine. But he still did not march straight upon London. His plan evidently was to surround the city with a wide circle of conquered and desolated country, till sheer isolation should compel its defenders to submit. South and west of London he was master from Dover to Wallingford; his course was now to march on, keeping at some distance from the city till the lands north and east of London should be as thoroughly wasted and subdued as the lands south of the Thames. He followed out this plan till he reached Berkhampstead in Hertfordshire. But by this time the spirit of London itself had failed. The blow which had been dealt at Senlac had at last reached the heart of England. At Berkhampstead the second act of William's great work was played out. The Conquest there received the formal ratification of the conquered.

### § 2. *London Negotiates with the Conqueror*

The chief military command in London was in the hands of the wounded staller Esegar, the sheriff of the Middle-Saxons. His wound was so severe that he could neither walk nor ride, but was carried about the city in a litter. But he is spoken of as being the soul of all the counsels taken by the defenders of London. The defection of the Northern earls had left him the layman of highest rank in the city, the natural protector and military adviser of the young king-elect. A tale is told of messages which are said to have gone to and fro between Esegar and William. But it is hard to know how far we ought to believe a story which implies that London was besieged by William, which it certainly was not. William, we are told, sent a secret message to Esegar. He asked only for a formal acknowledgment of his right. Let William have the name of king, and all things in the kingdom should be ruled according to the bidding of the sheriff of the Middle-Saxons. Esegar listens; he has no intention of yielding even thus far, but he thinks it prudent to dissemble. He summons an Assembly, among the members of which we may possibly discern the forerunners of the famous aldermen of London. He sets forth





the general sad state of the country and the special dangers of the besieged city. It would be prudent to send a cunning messenger who should entrap the invader with wily words. Let him offer a feigned submission, which might at least cause delay and stave off the immediate danger. The messenger went; but to deceive William was found to be no such easy matter. The fox — it is his own poetical panegyrist who makes the comparison — is not to be caught in a trap laid in open day. William pretends to accept the proposals of Esegar, the exact details of which are not told us. But he wins over the messenger by crafty speeches, backed by gifts and by promises greater than the gifts. The messenger goes back to London to enlarge on the might, the wisdom, the just rights, and the various excellencies of William. The invader is one whom it is on every ground hopeless to resist. His intentions are friendly; he offers peace to the city; wisdom dictates one course only, that of immediate submission to such a candidate for the kingdom. The people applaud, the Senate approves; both orders — their distinct action is clearly marked — vote at once to forsake the cause of the young Ætheling, and to make their submission to the conquering duke.

Whatever truth there may be in this story, it is certain that a resolution to the same effect as that described by the poet was actually come to within the walls of London. While William was at Berkhampstead, an embassy came to submit and to do homage to him — an embassy which might be fairly looked upon as having a right to speak in the name of at least Southern England. Thither came Eadgar, a king deposed before he was full king. Thither came the metropolitan of York, perhaps also the metropolitan of Canterbury. Thither came at least two other bishops, Wulfstan of Worcester and Walter of Hereford, and with them came the best men of London, and many other of the chief men of England. And on a sad and shameful errand they came. They came to make their submission to the invader and to pray him to accept the crown of England. The defection of the Northern earls, the terror struck into men's hearts by William's ravages, had done their work. They bowed to him for need. Hard, indeed, the need was, but the need stared them in the face; men of cold wisdom even said that they ought to have bowed to William long before. They sware oaths to him and gave him hostages.

William received his new subjects graciously; to the young rival who had so easily fallen before him he was specially gracious. The kiss of peace was given by the Conqueror to Eadgar and to

his companions, and he pledged his word that he would be a good lord to them. Such a submission on the part of so many men of such lofty rank might of itself be deemed equivalent to an election to the crown. But a more direct requisition seems not to have been wanting. It was probably at Berkhampstead that William was, as we are told, prayed by the chief men of England, spiritual and temporal, to accept the vacant crown. They needed a king; they had always been used to submit to a crowned king and to none other. Here we may clearly see the almost superstitious importance which was then attached to the ceremony of coronation. The uncrowned Eadgar had been no full king, and he had been unable to defend his people. The armed candidate who was encamped at Berkhampstead was no longer to be withstood by force of arms. The best course was to acknowledge and receive him at once, and by the mystic rite of consecration to change him from a foreign invader into an English king.

We must bear in mind that men were living who could remember how an earlier foreign invader had been changed into an English king, into a king who had won his place among the noblest of England's native worthies. England had accepted Cnut the Dane, and she had flourished under him as she had never flourished before or since. Men might hope that the like good luck would follow on their acceptance of William the Norman. William, in truth, promised better than Cnut in every way. Instead of a half-beaten sea-king, he was the model prince of Europe, the valiant soldier, the wise ruler, the pious son of the Church, the prince who, among unparalleled difficulties, had raised his paternal duchy to a state of prosperity and good government which made it the wonder and the envy of continental lands. The hopes of those who dreamed that William would prove a second Cnut were doomed to be woefully disappointed. But such hopes were at the time, if not unreasonable, at all events plausible. It is easy to understand how men may have been led away by them. Men, too, especially churchmen, might easily argue that the event had proved that it was God's will that William should be received. Harold had appealed to God's judgment upon the field of battle, and the verdict of God's judgment had been given against him. Those who had fought under the banner of the Fighting Man against the banner of the Apostle were proved to have been in truth men fighting against God.

All these arguments, backed by the presence in the land of William's victorious army, would have their effect upon men's minds. We can even understand that they might produce some-

thing more than a mere sullen submission to physical force. We can understand that men may have brought themselves to a belief, unwilling indeed, but not either absolutely compulsory or absolutely hypocritical, that the king who had been so visibly sent to them by the hand of God ought to be frankly and loyally acknowledged. We can believe that the request made by so many Englishmen that the Conqueror would at once assume the English crown was made in an artificial but not a dishonest frame of mind. It was made in that state of artificial hope, even of artificial eagerness, which is not uncommon in men who are striving to make the best of a bad bargain. For the moment they really wished for William as their king. But it was only for the moment that the wish lasted.

### § 3. *William Accepts the Crown of England*

The crown was thus offered to William, but we are told that it was by no means eagerly accepted by him. He summoned a Council of his chief officers and advisers — we are hardly to suppose a Norman military Gemót — and laid the matter before them. Possibly he merely wished to prove the minds of his friends and followers; possibly the arguments which they brought forward had real weight with him. Was it, he asked, expedient for him to take the crown, while he was still so far from being in complete possession of the kingdom? We must remember that though the prelates of York, Worcester, and Hereford were in William's camp, yet York, Worcester, and Hereford were not in William's hands. William had actual possession only of the South-eastern shires. His authority reached westward as far as Winchester, northward as far as his plunderers could go from the spot where he was now encamped. Was it prudent then, he argued, so hastily to assume a kingship which, in the greater part of the land, would still be kingship only in name? He wished, moreover, — and here we may believe that William spoke from the heart, — that whenever he should be raised into a crowned king, his beloved and faithful duchess might be there to share his honors. He asked, then, the opinion of the Assembly as to the immediate acceptance of the crown which was pressed upon him.

The military Council was strongly in favor of William's acceptance of the crown, but the decisive answer was given, not by any of William's native subjects, but by one of the most eminent of the foreign volunteers. Hamon, Viscount of Thouars,

a man, we are told, as ready of speech as he was valiant in fight, had, on the height of Telham, been the first to hail the duke as a future king. He was not unwilling that the words which had then fallen from him as an omen should now assume full shape and substance. The Aquitanian chief began in a courtly strain by praising the condescension of the general who deigned to take the opinion of his soldiers on such a point. It was not, he said, a matter for much deliberation, when all were united in one wish. It was the desire of every man in William's army to see his lord become a king as soon as might be. To make William a king, was the very object for which all of them had crossed the sea; the object for which they had exposed themselves to the dangers of the deep and of the battle. As for England itself, the wisest men in England, the highest in rank and character, were there, offering the kingship of their land to William. They doubtless knew best what was for the good of their own country. They clearly saw in William a fit man to reign over them, one under whose rule themselves and their country would flourish. An offer thus pressed on him from all sides it was clearly his duty to accept.

William, we are told, weighed what was said, and determined at once to accept the crown. He felt that, if he were once crowned king, the magic of the royal name would have its effect. It would do something to damp the spirit of resistance in the still unsubdued portions of the country. Men who were eager to fight against a mere foreign invader, would be less inclined to withstand a king formally chosen and consecrated according to the laws of the kingdom. The Duke of the Normans therefore signified to the English embassy his readiness at once to assume the kingship of England. The day for the consecration of the king-elect was of course fixed for the great Festival of the Church which was drawing near. The Midwinter Feast was to be again held at Westminster by a crowned king. On the Feast of the Nativity, within less than a full year from the consecration of the minster itself, the Church of Eadward was to behold another king crowned and anointed within its walls. Events had indeed followed fast on one another since the Christmas Gemót of the last year had been held by the last king of the House of Cerdic.

### § 4. *Preparations for the Coronation*

The Conqueror was thus king-elect. His plans had answered. His arts and his arms had been alike successful. And the triumph





of his subtlety had been specially his own. It was the chance shot of an arrow which had overcome the English king; but it was William's own policy which had overcome the English people. King in truth only by the edge of the sword, he had so managed matters that he had now the formal right to call himself king, not only by the bequest of Eadward, but by the election of the English people. But having won this great success of his craft, he was not inclined to jeopard what he had won by the neglect of any needful military precaution. He did not trust himself in London till his position there was secured, till some steps had been taken towards holding the lofty spirit of the citizens in check. He sent on a detachment before him to prepare a fortress in or close to the city. This was doubtless one of those hasty structures of wood of which we have heard at Brionne and at Arques; but it was the germ which grew into the noblest work of Norman military art, the mighty Tower of Gundulf. Orders were also sent to make everything ready for the reception of the new king and for the great ceremony of his inauguration.

Of William's conduct meanwhile two exactly opposite pictures are given us by the Norman and by the English writers. His panegyrist tells us that all was quiet and peaceful; as there were no longer any human foes to be slaughtered, William could carry on his favorite warfare with the denizens of the air and of the forest. The English writers, on the other hand, tell us how, notwithstanding the submission of his new subjects, notwithstanding his own promises to them, the king-elect still allowed his soldiers to harry the country and burn the towns. There is probably truth in both accounts. William had no longer any motive for systematic ravages, such as he had been guilty of before and after the battle. No records of any devastations in Hertfordshire remain, such as the records which we have seen of his devastations in Sussex. But we have seen also, from what happened at Dover, how hard it was to control men, many of whom doubtless thought that whatever was left to an Englishman was something taken from themselves. We have seen also that, from whatever cause, William, though he indemnified the sufferers, failed to punish the criminals. We may believe that something of this sort took place now. Systematic ravages, carried on by the Duke's order, doubtless stopped, but the excesses of the army, the amount of burning and plundering done without his order, but which he failed to check or to punish, was doubtless considerable.

From Berkhampstead to London, whatever was the amount

of damage done by the way, William marched on without opposition. When the preparations which were to keep the city in subjection were completed, William drew near in readiness for the great rite which was to change the Conqueror into a king. As to the place of the ceremony, there can be no doubt. William was to be crowned in the church which had been reared by his kinsman and predecessor, and where his mortal remains, lifeless, yet undecayed, and already displaying their wonder-working powers, lay as it were to welcome him. William was thus to be consecrated within the same temple where Harold had been consecrated less than a year before. He was to be consecrated with the same rites and by the same hand. I wish we could believe, on the report of some later English writers, that William sought for consecration at the hands of Stigand, and that the high-souled primate refused to pour the holy unction on the head of an usurper and a man of blood. But had William offered to be crowned by Stigand, he would indeed have fallen away from his character as the reformer of English ecclesiastical discipline. The act, too, would have been equivalent to giving up one of his three counts against England; it would have been an acknowledgment that Archbishop Robert had been lawfully deposed. The scruple which had affected even the mind of Harold would probably be really felt by William with ten times as much force; it would certainly be professed by him with ten times as great ostentation.

The special favorite and champion of Rome could not, in common consistency, ask for consecration at the hands of a primate whom Rome had declared to be no primate at all, and who had no pallium save that which he had received from an usurper of the Holy See. Still Stigand, though not a lawful primate, was at least an ordained priest and a consecrated bishop; he might perhaps even be recognized as the lawful occupant of the See of Winchester. He was also personally the first man in England, to whom it was William's policy for the present to avoid giving any needless offence. He was therefore allowed to take a part in the ceremony second only to that of the actual celebrant. But the sacramental rite itself was to be performed by the hands of Ealdred. The Northern primate was the only canonical metropolitan in the realm, and he was the man who, as having been the leader of the embassy at Berkhampstead, might be looked on as having been the first Englishman to take a formal part in making William king. The Primate of Northumberland had thus in one year to anoint two kings,—the champion of Eng-

land and her Conqueror. He had to anoint both far away from his own province, and to anoint both at a time when he could in no way pledge himself that the willing consent of his province should confirm his own formal act.

### § 5. *The Coronation of William*

The Christmas morn at last came; and once more, as on the day of the Epiphany, a king-elect entered the portals of the West Minster to receive his crown. But now, unlike the day of the Epiphany, the approach to the church was kept by a guard of Norman horsemen. Otherwise all was peaceful. Within the church all was in readiness; a new crown, rich with gems, was ready for the ceremony; a crowd of spectators of both nations filled the minster. The great procession then swept on. A crowd of clergy bearing crosses marched first; then followed the bishops; lastly, surrounded by the chief men of his own land and of his new kingdom, came the renowned duke himself, with Ealdred and Stigand on either side of him. Amid the shouts of the people, William the Conqueror passed on to the royal seat before the high altar, there to go through the same solemn rites which had so lately been gone through on the same spot by his fallen rival. The *Te Deum* which had been sung over Harold was now again sung over William. And now again, in ancient form, the crowd that thronged the minster was asked whether they would that the candidate who stood before them should be crowned king over the land. But now a new thing, unknown to the coronation of Eadward or of Harold, had to mark the coronation of William. A king was to be crowned who spake not our ancient tongue, and with him many who knew not the speech of England stood there to behold the rite. It was therefore not enough for Ealdred to demand in his native tongue whether the assembled crowd consented to the consecration of the duke of the Normans. The question had to be put a second time in French by Geoffrey, Bishop of Coutances, one of the prelates who had borne his part in those rites in the camp at Hastings which had ushered in the day of St. Calixtus. The assent of the assembled multitude of both nations was given in ancient form. The voices which on the Epiphany had shouted "Yea, yea, King Harold," shouted at Christmas with equal apparent zeal, "Yea, yea, King William." Men's hearts had not changed, but they had learned, through the events of that awful year, to submit as cheerfully as

might be to the doom which could not be escaped. The shout rang loud through the minster; it reached the ears of the Norman horsemen who kept watch round the building.

They had doubtless never before heard the mighty voice of an assembled people. They deemed, or professed to deem, that some evil was being done to the newly chosen sovereign. Instead, however, of rushing in to his help, they hastened, with the strange instinct of their nation, to set fire to the buildings around the minster. At once all was confusion, the glare was seen, the noise was heard, within the walls of the church. Men and women of all ranks rushed forth to quench the flames or to save their goods; some, it is said, to seek for their chance of plunder in such a scene of terror. The king-elect, with the officiating prelates and clergy and the monks of the abbey, alone remained before the altar. They trembled, and perhaps for the first and last time in his life William trembled also. His heart had never failed him either in council or in battle; but here was a scene the like of which William himself was not prepared to brave. But the rite went on; the trembling duke took the oaths of an English king, — the oaths to do justice and mercy to all within his realm, — and a special oath, devised seemingly to meet the case of a foreign king, — an oath that, if his people proved loyal to him, he would rule them as well as the best of the kings who had gone before him. The prayers and litanies and hymns went on; the rite, hurried and maimed of its splendor, lacked nothing of sacramental virtue or of ecclesiastical significance. All was done in order; while the flames were raging around, amid the uproar and shouts which surrounded the holy place, Ealdred could still nerve himself to pour the holy oil upon the royal head, to place the rod and the sceptre in the royal hands. In the presence of that small band of monks and bishops the great rite was brought to its close, and the royal diadem with all its gleaming gems rested firmly on the brow of William, king of the English.

The work of the Conquest was now formally completed; the Conqueror sat in the royal seat of England. He had claimed the crown of his kinsman; he had set forth his claim in the ears of Europe; he had maintained it on the field of battle, and now it had been formally acknowledged by the nation over which he sought to rule. As far as words and outward rites went, nothing was now wanting: William was king, chosen, crowned, and anointed. But how far he still was from being in truth ruler over the whole land, the tale which is yet in store will set before us. We have

yet to see how gradually William won, how sternly yet how wisely he ruled, the land which he had conquered. We have to see how, one by one, the native chiefs of England were subdued, won over, or cut off, and how the highest offices and the richest lands of England were parted out among strangers. We have to see the Conqueror in all his might; we have to see him, too, in those later and gloomier years, when home-bred sorrows gathered thickly round him, and when victory at last ceased to wait upon his banners. At last, by a cycle as strange as any in the whole range of history, we shall follow him to his burial as we have followed him to his crowning, and we shall see the body of the Conqueror lowered to his grave, in the land of his birth and in the minster of his own rearing, amid a scene as wild and awful as that of the day which witnessed his investiture with the royalty of England.

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# CHAPTER II

## ANGLO-NORMAN FEUDALISM

As a result of the Norman Conquest, the old English landlords — earls and thegns — were displaced, and the lands of England with the peasants dwelling on them divided out among the followers of William, the latter quite naturally retaining a large share for himself. In addition to the lands, the new masters received certain governmental powers over their tenants, such as the right to do justice and punish offenders. The terms on which the lands were held and the powers which the lords enjoyed were destined to be the subject of innumerable disputes between kings and vassals during many centuries, for the kings often sought to lay enormous burdens on the lands and to have justice administered by their own officers, especially in order that they might enjoy the profits arising from fines. Sometimes these disputes even broke out into civil war, and sometimes they led to compromises in the form of documents such as the Great Charter. It is therefore of fundamental importance that the student should examine as carefully as possible the conditions on which these lands were held.

### § 1. *Position of William as Conqueror and Sovereign*[1]

In 1066 the Anglo-Saxon commonwealth was suddenly invaded by a war band of Normans, led by William, Duke of Normandy. These invaders, originally from the north, had in the previous century settled on the soil of France and adopted the French language and customs. In their Norman home they had also developed under Frankish influences a military and administrative system of their own, and after their conquest of England they

[1] Adapted from Gneist, *History of the English Constitution*, chap. viii. By permission of G. P. Putnam's Sons, Publishers.





naturally carried some of their ideas into practice so far as was necessary to secure their position as the dominant class under the sovereignty of William the Conqueror.

The Duke of Normandy was recognized as king of England by a formally summoned National Assembly. The old controversy whether William the Bastard conquered England or under what other title he acquired control of the country may be considered as decided by the Conqueror himself, who declared that he had entered upon the possession of the country as the designated testamentary heir and legitimate successor of King Edward. This was the only manner in which the new monarch could gain the permanent obedience of his new subjects and make a stand against immoderate pretensions on the part of his followers. It was therefore not the tribe of the Normans but Duke William who had got possession of the country with a title from the pretended will of Edward, with the consent of the highest authority in the Church, and with the consent of the National Assembly. As a matter of fact, as well as of right, it was possible to treat the country in this way as a personal acquisition, as the "Seigneury," "Dominion," *terra regis Anglica, terra mea* — a designation frequently found in the records.

The mutual relations of the Saxons and the Francigenæ, however, remained hostile for many generations. The conquered people repaid the haughtiness of the victors by attempts at rebellion; and when these failed, by silent animosity towards the new lords and their French customs.

### § 2. *Organization of the Military System and Government on a Basis of Land Tenure*

The best way of considering the Norman settlement is therefore to regard it as a permanent military occupation which (with its numerous fortifications and maintenance of a paid soldiery) led to a thoroughly new military organization. But this change also corresponded to the actual needs of the country, because the Anglo-Saxon commonwealth had fallen through internal dissension, a defective organization of its military array, and a faulty distribution of the military burdens. In order to regain the lost unity and strength, the system of resting military service upon popular levies and personal vassalage had to be abolished and the entire landed property, so far as it had to bear the burdens of military charges, took the form of property held on condition that the

specified military services should be discharged. This marks the period of the feudal system, which may be said to date from the time when the feature of military burdens became predominant in landed property, and the grants, to which the character of payment of military services was attached, gave the warrior a permanently dependent position. England is the only state in which through special circumstances there was possible a systematic application of this principle which made the State, represented in the person of the king, the sole proprietor, hence permitting a fresh redistribution of all the land on the clear basis of dependent and derivative tenure.

It was the position taken by William as the legitimate successor to King Edward which settled this question for England. In treating as rebels King Harold and those who fought on his side, as well as the Saxons who afterwards rebelled or opposed William, a legal justification was found for a general confiscation of landed estates. The inheritance of Edward and the possessions of the family of Harold were immediately seized as royal demesnes. By virtue of grants the leaders of the conquering host entered into the possessions of the defeated Saxons. The great vassals of William could either immediately furnish their own contingents charged upon their land grants or do so by subinfeudation, by which means a portion of the Saxon thegns, who had not been compromised in the war, could remain as undervassals upon their old estates. In a like manner the possessions of the churches and monasteries were retained and even increased.

The object that the royal administration now pursued for a century was to impose on the whole mass of new and old possessors the obligation to do military service and bear the burdens of the state. The unit of land, known as the knight's fee, on which a specific obligation rested, tended to be the five-hide holding of the Anglo-Saxon period, yet with a stricter rating according to the value of the product of the particular unit. The charge resting upon this military land unit was the furnishing at royal command of one heavily-armed horseman for forty days' service in the year (*servitium unius militis*).[1]

The exact period at which this universal systematization took place is a matter of controversy, but it seems highly probable that William the Conqueror did most of it in his day. Although it is an error to regard the system as rigid at any particular time

[1] On tenure by knight's service and tenure in general, see Pollock and Maitland, *History of English Law*, Vol. I, Bk. II.





or incapable of infinite modifications by private arrangements, there are certain general legal incidents marking the relations of lord and vassal in this complex land-holding system.

### § 3. *The Legal Incidents of the Feudal System*

1. *Conditional Hereditability of the Grant.* — According to Norman-French custom, conditional hereditability has been regarded as the rule also in Anglo-Norman fiefs. Yet the form of the grant of the land, ***dedi et concessi tibi et heredibus tuis***, only means a concession amounting to continuous payment for military service rendered. The enfeoffment of the heir only took place conditionally upon his being a man capable of fighting, and that of the heiress only where there was a failure of males and in order that she might marry a warrior acceptable to the military chief. Accordingly it was natural that the feoffee could neither sell nor mortgage the estate, nor make it a security for his debts, nor dispose of it by will; and hence followed the further legal incidents.

2. *The Relevium, Relief.* — As an acknowledgment that the vassal possessed the estate on condition of doing military service, a certain quantity of weapons and accoutrements or a sum of money was rendered by Norman custom, when a change of the person bound to service took place. Out of this change proceeded a fixed payment in recognition of the conditional tenure. In a certain sense the *prima seisina*, primer-seizin, is in addition to this. For greater security the king as lord of the fee could take possession of the estate after the death of the vassal until the successor proved his title, or, where necessary, pleaded and obtained his right and bound himself to pay the ***relevium***. According to old feudal custom, the lord could in this way claim a whole year's income.

3. *Feudal Wardship and Marriage.* — As it is an act of favor on the part of the feudal lord to give the fee to one personally incapable of performing military service, so he can take back the estate when the heir is a minor, exercise in person or through a *custos* the rights belonging to it, and continue this wardship, enjoying the profits, until the completion of the heir's twenty-first year, without rendering any account. As *tutor legitimus* of the ward's person he might also give the heir in marriage when the latter had arrived at a proper age and on such an occasion could exact money payments — a custom which arose under circumstances when the nearest agnate was wont to drive a bargain con-

cerning the marriage of the ward. In the failure of sons, the heiress remained under this profitable wardship until her majority, and when she had come of age was married by the feudal lord to a husband who now became the real feodary. In the spirit of the old wardship the marriage of the female ward was also regarded as a money business.

4. *Aids, Auxilia.* — The original design of the fief as a means of obtaining service for the lord binds the vassal to an extraordinary contribution in extraordinary cases of honor and necessity, notably to ransom the lord who has been taken prisoner, to endow the lord's eldest daughter, and when his eldest son is made a knight. These three cases are mentioned in the *Grand Coutumier* and amongst the Normans in Naples and Sicily as the customary ones, but do not absolutely exclude other urgent cases, especially contributions made by the under vassals towards the reliefs and aids which their lord pays to his feudal overlord and for the payment of his debts.

5. *The Escheat, Forfeiture of the Fief*, is the last decisive point in which the conditional value of the grant appears. The former takes place when the feudatory dies without heirs capable of succeeding to the fief — a case that must frequently have occurred. Still more frequent was forfeiture on account of felony which includes almost all important crimes, regarding them from the point of view of disobedience towards the feudal lord. The especial harshness of the feudal law adds to the formal attainder on account of "treason and felony," a corruption of blood or disability of the descendants to succeed to the inheritance.

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# CHAPTER III

## SORTS AND CONDITIONS OF MEN

ONE of the most important ways in which feudal society differed from modern society was the manner in which the privileges and responsibilities of various classes of persons were largely determined by birth and fixed in law. While it is an undeniable fact that the possession of wealth gives decided advantages at law to-day, yet so far as formal principles are concerned, neither birth nor riches has any special privileges. It is a grave error, however, to regard the public and private law of the Middle Ages as applying indifferently to all inhabitants of the country. It is just this confusion of class rights with supposedly "national" rights, this identification of the class with the nation, which has led to so many grave misconceptions about the "liberties of British freemen." The position of the various classes within and before the mediæval law is fully described in the section of Pollock and Maitland's *History of English Law*, from which the following extract on three important classes is taken.

### § 1. *The Earls and Barons* [1]

Our law hardly knows anything of a noble or of a gentle class; all free men are in the main equal before the law. For a moment this may seem strange. A conquered country is hardly the place in which we should look for an equality which, having regard to other lands, we must call exceptional. Yet in truth it is the result of the Conquest, though a result that was slowly evolved. The compiler of the *Leges Henrici* would willingly have given us a full law of ranks or estates of men; but the materials at his com-

[1] Pollock and Maitland, *History of English Law*, 2nd edition, Vol. I, pp. 408 ff. By permission of Professor Maitland and the Cambridge University Press.

mand were too heterogeneous: counts, barons, earls, thegns, Norman milites, English radknights, vidames, vavassors, sokemen, villeins, ceorls, serfs, two-hundred men, six-hundred men — a text writer can do little with this disorderly mass. But a strong king can do with it what he pleases: he can make his favor the measure of nobility; they are noble whom he treats as such. And he does not choose that there shall be much nobility. Gradually a small noble class is formed, an estate of temporal lords, of earls and barons. The principles which hold it together are far rather land tenure and the king's will than the transmission of noble blood. Its members have political privileges which are the counterpart of political duties; the king consults them, and is in some sort bound to consult them, and they are bound to attend his summons and give him counsel. They have hardly any other privileges. During the baron's life his children have no privileges; on his death only the new baron becomes noble.

The privileges of the earl or baron are, we say, extremely few. Doubtless from of old every free man was entitled to be judged by his peers: that is to say, he was entitled to insist that those who were to sit as his judges should not be of a legal rank lower than his own. Under the dominance of the law of tenure this rule would take the form that a vassal is not to þe judged by subvassals. So long as the king's court was a court of tenants in chief, any man would have found there those who were at least his equals, and even in a county court there would have been barons enough to judge any baron. As the administration of royal justice gradually became the function of professional lawyers, the cry for a *judicium parium* was raised by the nobles, and in words this was conceded to them. For a long time, however, the concession had no very marked effect, because the court held *coram rege*, though for everyday purposes; but a bench of professional justices might at any moment assume a shape to which no baron could have taken exception — even a Parliament to which all the barons had been summoned might still be regarded as this same court taking for the nonce a specially solemn form. And the meaning of the rule was not very plain. On the one hand, we hear the assertion that even in civil suits the earl or baron should have the judgment of his peers; on the other hand Peter des Roches, the king's minister, can say that the king's justices are the peers of any man, and the very title of the "barons" of the exchequer forbids us to treat this as mere insolence. And so Bracton gives us no doctrine as to the privilege of the barons. He does recognize the distinction

between the king's court of "justices" and the king's court of "peers," but for the sake of a quite other doctrine, which left but few traces in later law. When there is a charge of treason, the king himself is the accuser, and life, limb, and inheritance are at stake; therefore it is not seemly that the king, either in person or by his justices who represent his person, should be judge; so Bracton throws out the suggestion that the cause should come before the "peers." We have here no privilege of peerage, but a special rule for all cases of high treason, based on the maxim that no one should be judge in his own cause. Under the Edwards the privilege of peerage was gradually ascertained, as the court of law held *coram rege*, which by this time was known as the King's Bench, became more utterly distinct from the assembly of the barons. But in the end the baron had gained very little. If charged with treason or felony, he was tried by his peers; if charged with a misdemeanor (*transgressio*), if sued in a civil suit by high or low, if the king challenged his choicest franchises, there was no special court for him; he had to abide the judgment of the king's justices. A certain freedom from arrest in civil causes we may perhaps allow him; but in Bracton's age arrest in civil causes was as yet no common event. That the tenant in chief could not be excommunicated without the king's leave, was a privilege of the king rather than of the baronage. One other privilege the baron had, but it was of questionable value. When he was adjudged to be in the king's mercy, the amount of the amercement was fixed, or "affeered," not by his merely "free and lawful" neighbors, but by his peers. For this purpose, however, his peers were found in the "barons" of the exchequer, and these experts in finance were not likely to spare him. There are a few little rules of procedure which distinguish the noble from the non-noble. Thus we are told that a summons to court should allow an earl one month, a baron three weeks, a free man a fortnight; and we may see some traces of a rule which exempts a baron from the necessity of swearing. Even the members of the king's family are under the ordinary law, though in their "personal" actions they have the same benefit of expeditious procedure that is enjoyed by merchants. Very different is the case of the king, who in all litigation "is prerogative."

### § 2. *The Knights*

Below the barons stand the knights; the law honors them by subjecting them to special burdens; but still knighthood can

hardly be accounted a legal status. In the administration of royal justice there is a great deal of work that can be done only by knights, at all events if there are knights to be had. Four knights, twelve knights, are constantly required as representatives of the county court or as recognitors. For some purposes mere free and lawful men will serve; for others, knights must be employed. On the whole, we may say that knights are required for the more solemn, the more ancient, the more decisive processes. To swear to a question of possession, free and lawful men are good enough; to give the final and conclusive verdict about a matter of right, knights are needed. They are treated as an able, trustworthy class; but we no longer find any such rule as that the oath of one thegn is equivalent to the oath of six ceorls. In administrative law, therefore, the knight is liable to some special burdens; in no other respect does he differ from the mere free man. Even military service and scutage have become matters of tenure rather than matters of rank, and, though the king may strive to force into knighthood all men of a certain degree of wealth, we have no such rule as that none but a knight can hold a knight's fee, Still less have we any such rule as that none but a knight or none but a baron can keep a seignorial court.

### § 3. *The Unfree*

In the main, then, all free men are equal before the law. Just because this is so the line between the free and the unfree seems very sharp. And the line between freedom and unfreedom is the line between freedom and servitude. Bracton accepts to the full the Roman dilemma: *Omnes homines aut liberi sunt aut servi.* He will have no more unfreedom, no semi-servile class, no merely prædial serfage, nothing equivalent to the Roman *colonatus.* All men are either free or serfs, and every serf is as much a serf as any other serf. We use the word *serf*, not the word *slave;* but it is to be remembered that Bracton had not got the word *slave.* He used the worst word that he had got, the word which, as he well knew, had described the Roman slave whom his owner might kill. And the serf has a *dominus;* we may prefer to render this by *lord* and not by *master* or *owner*, and it is worthy of observation that mediæval Latin cannot express this distinction; if the serf has a *dominus*, the palatine earl, nay, the king of England, so long as he is duke of Aquitaine, has a *dominus* also, and this is somewhat in the serf's favor; but still

Bracton uses the only words by which he could have described a slave and slave owner. True, that *servus* is neither the commonest nor yet the most technical name for the unfree man; more commonly he is called *villanus* or *nativus*, and these are the words used in legal pleadings; but for Bracton these three terms are interchangeable, and though efforts, not very consistent or successful efforts, might be made to distinguish between them, and some thought it wrong to call the villeins serfs, still it is certain that *nativus* always implied personal unfreedom, that *villanus* did the same when employed by lawyers, and that Bracton was right in saying that the law of his time knew no degrees of personal unfreedom. Even in common practice and by men who were not jurists the word *servus* was sometimes used as an equivalent for *nativus* or *villanus*. The jurors of one hundred will call all the unfree people *servi*, while in the next hundred they will be *villani*. In French villein is the common word; but the feminine of villein is *nieve* (*nativa*).

There are no degrees of personal unfreedom; there is no such thing as merely prædial serfage. A free man may hold in villeinage; but that is an utterly different thing; he is in no sort a serf; so far from being bound to the soil he can fling up his tenement and go whithersoever he pleases. In later centuries certain niceties of pleading gave rise to the terms *villein in gross* and *villein regardant* and in yet later times, when villeinage of any kind was obsolescent, these were supposed to point to two different classes of men,—the villein regardant being inseverable from a particular manor, while the villein in gross might be detached from the soil and sold as a chattel. The law of Bracton's time recognizes no such distinction. As a matter of fact and a matter of custom, English serfage may well be called prædial. In the first place, it rarely if ever happens that the serfs are employed in other work than agriculture and its attendant processes; their function is to cultivate their lord's demesne. In the second place, the serf usually holds more or less land, at least a cottage, or else is the member of a household whose head holds land, and the services that he does to his lord are constantly regarded in practice as the return which is due from him in respect of his tenement or even as the return due from the tenement itself; such services as we have already seen are often minutely defined by custom. In the third place, his lord does not feed or clothe him; he makes his own living by cultivating his villein tenement or, in case he is but a cottager, by earning wages at the hand of his wealthier neighbors.

In the fourth place, he is seldom severed from his tenement; he is seldom sold as a chattel, though this happens now and again; he passes from feoffor to feoffee, from ancestor to heir as annexed to the soil. For all this, the law as administered by the king's court permits his lord to remove him from the tenement. It could hardly have done otherwise, for he held in villeinage, and even a free man holding in villeinage could be ejected from his tenement whenever the lord pleased without finding a remedy before the king's justices. But as to the serf, not only could he be removed from one tenement, he could be placed in another; his lord might set him to work of any kind; the king's court would not interfere; for he was a *servus*, and his person belonged to his lord; "he was merely the chattel of his lord to give and sell at his pleasure."

But whatever terms the lawyers may use, their own first principles will forbid us to speak of the English "serf" as a slave; their own first principles, we say, for what we find is not a general law of slavery humanely mitigated in some details, but a conception of serfdom which at many points comes into conflict with our notion of slavery. In his treatment of the subject Bracton frequently insists on the relativity of serfdom. Serfdom with him is hardly a status; it is but a relation between two persons, serf and lord. As regards his lord the serf has, at least as a rule, no rights; but as regards other persons he has all or nearly all the rights of a free man; it is nothing to them that he is a serf. Now this relative serfdom we cannot call slavery. As regards mankind at large, the serf so far from being a mere thing is a free man. This seems to be the main principle of the law of Bracton's day. We must now examine each of its two sides: the serf's rightlessness as regards his lord, his freedom or "quasi-freedom" as regards men in general. It will then remain to speak of his relation to the state.

### § 4. *The Serf in Relation to his Lord*

In relation to his lord, the general rule makes him rightless. Criminal law indeed protects him in life and limb. Such protection, however, need not be regarded as an exception to the rule. Bracton can here fall back upon the Institutes: the State is concerned to see that no man shall make an ill use of his property. Our modern statutes which prohibit cruelty to animals do not give rights to dogs and horses, and, though it is certain that the lord





could be punished for killing or maiming his villein, it is not certain that the villein or his heir could set the law in motion by means of an "appeal." The protection afforded by criminal law seems to go no farther than the preservation of life and limb. The lord may beat or imprison his serf, though of such doings we do not hear very much.

As against his lord, the serf can have no proprietary rights. If he holds in villeinage of his lord, of course he is not protected in his holding by the king's courts; but then this want of protection we need not regard as a consequence of serfdom, for, were he a free man, he still would be unprotected; and then just as the free man holding in villeinage is protected by custom and manorial courts, so the serf is similarly protected. His rightlessness appears more clearly as regards his chattels and any land that he may have acquired from one who is not his master. As regards any movable goods that he has, the lord may take these to himself. We hear, indeed, hints that his "wainage," his instruments of husbandry, are protected even against his lord, and that his lord can be guilty against him of the crime of robbery; but these hints are either belated or premature; the lord has a right to seize his chattels. But it is a right to seize them and so become owner of them; until seizure, the serf is their owner, and others can deal with him as such. As a matter of fact, we hear little of arbitrary seizures, much of seizures which are not arbitrary but are the enforcement of manorial customs. The villeins are constantly amerced and distrained; the lord in his court habitually treats them as owners of chattels, he even permits them to make wills, and when they die he contents himself with a heriot. So here again, when we look at the facts, the serf's condition seems better described as unprotectedness than as rightlessness, though doubtless a lord may from time to time seize goods without being able to justify the seizure by reference to custom. Then, if the serf acquires land from some third person to hold by free tenure, he whose serf he is may seize it and hold it; but until such seizure the serf is tenant and others may and must treat him as such.

And then we find that all this rightlessness or unprotectedness exists only where serfdom exists *de facto*. The learning of seizin or possession and the rigid prohibition of self-help have come to the aid of the serfs. Serfdom and liberty are treated as things of which there may be possession, legally protected possession. A fugitive serf may somewhat easily acquire a "seizin" of liberty. When he is seized of liberty, the lord's power of self-help is gone; he can no

longer capture the fugitive without a writ; he can no longer take any lands or chattels that the fugitive may have acquired since his flight. He must have recourse to a writ, and the fugitive will have an opportunity of asserting that by rights he is a free man, and of asserting this in the king's court before justices who openly profess a leaning in favor of liberty. We need not suppose that this curious extension of the idea of possession is due to this leaning; it is part and parcel of one of the great constructive exploits of mediæval law — relationships which exist *de facto* are to be protected until it be proved that they do not exist *de iure*. Still the doctrine, though it had a double edge, told against the lords. Apparently in Bracton's day a serf who fled had to be captured within four days; otherwise he could not be captured, unless within a year and a day he returned to "his villein nest"; a parallel rule gave the ejected landholder but four days for self-help. Of course, however, every absence from the lord's land was not a flight; the serf might be living elsewhere and making some periodic payment, chevagium, head-money, in recognition of his lord's rights; if so, he was not in seizin of his liberty. What the Institutes say about domesticated animals can be regarded as to the point.

Yet another qualification of rightlessness is suggested. More than once Bracton comes to the question whether the lord may not be bound by an agreement, or covenant, made with his serf. He is inclined to say Yes. His reasoning is this: the lord can manumit his serf, make him free for all purposes; but the greater includes the less; therefore the serf may be made a free man for a single purpose, — namely, that of exacting some covenanted benefit, and yet for the rest may remain a serf. Such reasoning is natural if once we regard serfdom as a mere relationship between two persons. It does not, however, seem to have prevailed for any long time, for our law came to a principle which was both more easily defensible and more hostile to serfdom, — namely, that if the lord makes a covenant with his serf, this implies a manumission; he becomes free because his lord has treated him as free. Bracton's doctrine very possibly had facts behind it and was no empty speculation, for we do find lords making formal agreements with their serfs; but it ran counter to a main current of English land law. The agreements that Bracton had in view were in the main agreements relating to the tenure of land, and as we have already seen, our law was strongly disinclined to recognize any contract concerning the occupation of land which was merely a contract and

not a bestowal of "real" rights; it urged the dilemma — no right to occupy land or some one of the known forms of legal tenure.

### § 5. *Relation of the Serf to Third Persons*

The serf's position in relation to all men other than his lord is simple — he is to be treated as a free man. When the lord is not concerned, criminal law makes no difference between bond and free, and apparently the free man may have to do battle with the bond. A blow given to a serf is a wrong to the serf. It may also give his lord a cause of action against the striker; but here also the law makes no difference between bond and free. If my serf is assaulted so that I lose his services or so that I suffer contumely, I have an action for damages; but it would be no otherwise had the assaulted person been my free servant. So also in defining the master's liability for wrongful acts done by his dependents, the same principles as regards authorization and ratification seem to be applied whether the dependents be free servants or serfs. It is rather for the acts of members, free or bond, of his household (*manupastus*, *mainpast*), that a man can be held liable than for the acts of his serfs.

Then in relation to men in general, the serf may have lands and goods, property and possession, and all appropriate remedies. Of course if he is ejected from a villein tenement, he has no action; the action belongs to the lord of whom he holds the tenement, who may or may not be his personal lord; were he a free man holding in villeinage, he would be no better off. But the serf can own and possess chattels and hold a tenement against all but his lord. This general proposition may require some qualifications or explanations in particular instances. We read in the Dialogue on the Exchequer that if the lord owes scutage to the crown, his serf's chattels can be seized, but ought not to be seized until his own chattels have been exhausted. We read in Bracton that when a lord is to be distrained his villein's chattels should be the very first object of attack; but in these cases we may say that the serf, having no proprietary rights against his lord, is treated as having none against those who by virtue of legal process are enabled to claim what the lord himself could seize — the general principle is hardly impaired by such qualifications, and it is a most important principle.

Still it is not a natural principle. This attempt to treat a man now as a chattel and now as a free and lawful person, or rather

to treat him as being both at one and the same moment, must give rise to difficult problems such as no law of true slavery can ever have to meet. Suppose, for example, that a villein makes an agreement with one who is not his lord; it seems certain that the villein can enforce it; but can the other contractor enforce it? To this question we have a definite answer from Britton, — a contract cannot be enforced against a villein; if he is sued and pleads "I was the villein of X when this agreement was made and all that I have belongs to him," then the plaintiff, unless he will contradict this plea, must fail and his action will be dismissed; nor can he sue X, for (unless there is some agency in the case) the lord is not bound by his serf's contract. In later times this rule must have been altered; the plea, "I am the villein of X and hold this land of him in villeinage," was often urged in action for land, but we do not find the plea, "I am the villein of X," set up in purely "personal" actions, as assuredly it would have been had it been a good plea. But, even if we admit that a villein may be sued upon contract, the creditor's remedy is precarious, for the lord can seize all the lands and chattels of his serf, and an action against his serf is just what will arouse his usually dormant right. Thus the law, in trying to work out its curious principle of "relative servitude," is driven to treat the serf as a privileged person, as one who can sue but not be sued upon a contract and, even when it allows that he can be sued, it can give the creditor but a poor chance of getting paid and will hardly prevent collusion between villeins and friendly lords. Again, we see the ecclesiastical courts condemning the villein to pay money for his sins, fornication, and the like, and then we see the villein getting into trouble with his lord for having thus expended money which in some sort was his lord's. The law with its idea of relative servitude seems to be fighting against the very nature of things and the very nature of persons.

### § 6. *Relation of the Serf to the State*

Lastly, we should notice the serf's position in public law. It is highly probable that a serf could not sit as the judge of a free man, though it may be much doubted whether this rule was strictly observed in the manorial courts. He could not sit as a judge in the communal courts, though he often had to go to them in the humbler capacity of a "presenter." So, too, he could not be a juror in civil causes; this he probably regarded as a blessed exemption from a duty which fell heavily on free men. But in criminal

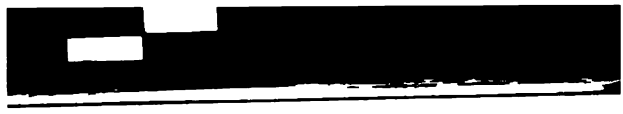
and in fiscal matters he had to make presentments. At least in the earlier part of the century, the verdict or testimony which sends free men to the gallows is commonly that of twelve free men indorsed by that of the representatives of four townships, and such representatives were very often, perhaps normally, born villeins. Such representatives served on coroners' inquests, and the king took their testimony when he wished to know the extent of the royal rights. In the "halimoots" or manorial courts the serfs are busy as presenters, jurors, affeerers of amercements, if not as judges; they fill the manorial offices; the reeve of the township is commonly a serf. What is more, the State in its exactions pays little heed to the line between free and bond; it expects all men, not merely all free men, to have arms; so soon as it begins to levy taxes on movables, the serfs, if they have chattels enough, must pay for them. It is but a small set-off for all this onerous freedom that a serf cannot be produced as champion or as compurgator; and even this rule is made to operate in favor of liberty; if a lord produces a serf as champion or compurgator, this is an implied manumission. The serfs have to bear many of the burdens of liberty. The State has a direct claim upon their bodies, their goods, their time, and their testimony, and if for a moment this seems to make their lot the less tolerable, it prevents our thinking of them as domestic animals, the chattels of their lords.

### § 7. *How Men Become Serfs*

Having seen what serfdom means, we may ask how men become serfs. The answer is that almost always the serf is a born serf; *nativus* and *villanus* were commonly used as interchangeable terms. But as to the course by which serfdom is transmitted from parent to child, we find more doubts than we might have expected. If both parents are serfs, of course the child is a serf; but if one parent is free and the other a serf, then difficulties seem to arise. The writer of the *Leges Henrici* holds that the child follows the father; but he quotes the proverb, *Vitulus matris est cuiuscunque taurus alluserit,* and seems to admit that in practice the child is treated as a serf if either of the parents is unfree. Glanvill is clear that the child of an unfree woman is a serf and seems to think that the child of an unfree man is no better off. Thus we should get the rule, which had been approved by the Church, — namely, that, whenever free and servile blood are mixed, the servile prevails. Bracton, however, has a more elabo-

rate scheme. A bastard follows the mother; the child of a bondwoman, if born out of wedlock, is a serf; if born in wedlock and of a free father, then another distinction must be taken; if a free man takes a bondwoman to wife and they dwell in her villein tenement, then their offspring will be born serfs; but if she follows him to "a free couch," then their children will be born free. So also when a bondman marries a free woman, the character of the tenement in which they dwell determines the character of the offspring. The influence thus ascribed to the tenement is very curious; it shows that to keep villein status and villein tenure apart was in practice a difficult matter, even for a lawyer ever ready to insist that in theory they had nothing to do with each other. In later days the courts seem to have adopted the simple rule that the condition of the father is the decisive fact, and to have pressed this rule to the absurd, if humane, conclusion that a bastard is always born free since he has no father.

"Mixed marriages," indeed, gave a great deal of trouble throughout the Middle Ages by raising questions as to the rights and remedies of the husband and wife. Ultimately "the better opinion of our books" was that the marriage of a female serf with a free man, other than her lord, did not absolutely enfranchise her, but merely made her free during the marriage. In 1302, however, we find two justices denouncing this doctrine as false, "and worse than false, for it is heresy"; apparently they think that such a marriage has all the effect of a manumission; but their opinion did not go undisputed. Such a marriage would not at any rate drag down the free man into personal servitude, though according to Bracton the issue of it would be serfs if they were born in the villein tenement. In the converse case in which a bondman marries a free woman, he of course is not enfranchised, though Bracton's doctrine would make their children free if born in her free tenement. On the contrary, it might be thought that, at all events if she went to live along with her villein husband in his villein tenement and to bear him villein children, she herself would be accounted a villein. But this was not the rule. How far during the marriage she could make good any rights against her husband's lord (and it will be remembered that as against all others her husband was a free man) was very doubtful; she could not sue without her husband, and if he joined in the action, the lord would say, "You are my villein." But on her husband's death she would be free once more, or rather her freedom would once more become apparent and operative.





Faint traces may be found of an opinion that birth in a certain district or a certain tenement will make the child unfree, or as the case may be, free, no matter the condition of its parents; but, except in the well-known privilege of Kentish soil, it seems to have found no legal sanction.

A person born free rarely becomes a serf. When Bracton speaks of prisoners of war being held as slaves and of a freeman being reduced to slavery on account of his ingratitude, this is but Romanesque learning. We do not in this age hear of servitude as a punishment, though the Welsh marchers claim the right of selling criminals as slaves, and King John can threaten all men with slavery if they do not take arms to resist an invasion. Nor do we any longer hear of free men selling themselves into slavery. But it is a principle of law that if a person has once confessed himself the serf of another in a court of record, he can never thereafter be heard to contradict this assertion, and so "confession" takes its place beside "birth" as one of the origins of servility. There are abundant cases in our records which suggest that this talk about confession is not idle; a defendant sometimes seeks to evade a plaintiff's demand by confessing that he is the villein of a third person, and thus, even in the later Middle Ages, men may sometimes have purchased peace and protection at the cost of liberty.

Whether prolonged serfdom *de facto* will generate serfdom *de iure*, was in Edward I's day a moot point. Some justices laid down as a maxim that no prescription can ever make servile, blood that once was free. Others flatly denied this rule, and apparently held that, if from father to son a succession of free men went on doing villein services, the time would come when an unfree child would be born to a free father. One opinion would have condemned to servitude the fifth generation in a series of persons performing base services, while a Scottish law book mentions the fourth generation, and a common form of pleading made a lord assert that he had been seized of the grandfather and great-great-grandfather of the man whose liberty was in dispute. Opinion might fluctuate about this question, because procedural rules prevented it from being often brought to a decision. The general rule as to the means by which free or servile status could be conclusively proved was that it must be proved *per parentes*. If the burden of proof lay on the person whose status was in question, he had to produce free kinsmen; if it lay on the would-be lord, he had to produce kinsmen of the would-be free man who would confess themselves serfs. A mere

verdict of the country might settle the question provisionally and, as we may say, for possessory purposes, but could not settle it conclusively except as against one who had voluntarily submitted to this test. The burden of the proof is thrown on one side or the other by seizin; the man who is in *de facto* enjoyment of liberty continues to be free until his servility is proved; the man who is under the power of a lord must remain so until he has shown his right to liberty. On the whole, the procedural rules seem favorable to freedom. In Bracton's day a four days' flight might throw the burden of proof upon the lord, and he would have to make out his title, not by the testimony of free and lawful neighbors, who would naturally infer serfdom *de iure* from serfdom *de facto*, but by the testimony of the fugitive's own kinsfolk as to the fugitive's pedigree, and they must confess themselves serfs before their testimony can be of any avail. On the other hand, if a man has been doing villein services, he may as a matter of fact easily fall into serfage, unless he is willing to run from hearth and home and risk all upon a successful flight and an action at law. If for generation after generation his stock has held a villein tenement and done villein services, he will be reckoned a villein, that is, a serf; even his kinsfolk will not dare to swear that he is free. There is no form of service so distinctly servile that it must needs be ascribed to servile status and not to villein tenure; even the merchet, which is regarded as the best test, may sometimes be paid *ratione tenementi* and not *ratione personæ;* but a prolonged performance of villein services must put a family's free status in jeopardy. That this is not so as a matter of law seems the opinion of the highest authorities; but the fact that a contrary opinion was current both in England and in Scotland may well make us think that in common life there had been a close connection between villein tenure and villein status.

### § 8. *The Manumission of Serfs*

And now as to the manumission: a lord can easily enfranchise his serf. He can do so expressly by charter of manumission; he does so impliedly by a grant of land to be held freely by the serf and his heirs, for a serf can have no heir but his lord; he does so impliedly by certain acts which treat the serf as free, by producing him in the king's court as his champion or compurgator; it is becoming dangerous for a lord to make any written agreement with his serf. There has been difficulty as to a direct purchase of

liberty. If the serf paid money to the lord for the grant of freedom, the lord might, it would seem, revoke the grant on the ground that the serf's money was his own money. This technical difficulty, for perhaps it was no more, was evaded by the intervention of a third person who made the purchase nominally with his own but really with the serf's money, and the serf having been sold and delivered (the ownership did not pass until delivery) was set free by his new owner.

In Bracton's day every act of manumission by the lord seems to have conferred full and perfect freedom; the freed man was in all respects the equal of the free born. This could hardly have been otherwise since, as we have seen, serfdom was regarded for the more part as a mere relation between two persons. Glanvill seems to have held a different opinion. He speaks as though the liberation would make the serf free as regards his former lord, but leave him a serf as regards all other men. The chief, if not the only, point that Glanvill had before his mind when he wrote this seems to have been that the free villein could not be produced as champion or compurgator. It is possible, also, that he had in view acts of enfranchisement which were merely private and would not have denied that there were solemner methods by which absolute freedom could be conferred. In the *Leges Henrici* the man who wishes to free his serf must do so in public, "in a church or a market or a county court or a hundred court, openly and before witnesses"; lance and sword are bestowed upon the new free man, and a ceremony is enacted which shows him that all ways lie open to his feet. Glanvill may have required some such public act if perfect liberty was to be conferred; but Bracton, who habitually regards serfdom as a mere relationship, sees no difficulty; the lord by destroying relationship destroys serfdom. Here we seem to see a modern notion of relative serfdom growing at the expense of an older notion of true slavery. To turn a thing into a person is a feat that cannot be performed without the aid of the State; but to make free as against yourself one who is already free as against all but you, this you can easily do, for it is hardly a matter of public law.

The serf will also become free (1) by dwelling for a year and a day on the king's demesne or in a privileged town — this is an assertion of prerogative right which peoples the king's manors and boroughs; (2) by being knighted — knighthood confers but a provisional freedom, for the knighted serf can be degraded when his servility is proved; (3) by entering religion or receiving holy orders;

it is unlawful to ordain a serf — this is forbidden by canon as well as by temporal law; but when he is once ordained, he is free, though his serfdom revives if he resumes a secular life. The lord's right of action for the recovery of a serf was subject to a prescriptive term; in 1236 the year 1210 was chosen as the limit and this limit was not altered until 1275; we have already seen that his right of self-help the lord lost somewhat easily, though less easily as time went on.

Such, briefly stated, is the English law of villeinage or serfage in the thirteenth century. Its central idea, that of the relativity of serfage, is strange. It looks artificial: that is to say, it seems to betray the handiwork of lawyers who have forced ancient facts into a modern theory. Slavery is very intelligible; so is slavery tempered by humane rules which will forbid an owner to maltreat his human chattel; so again is a prædial serfage, and the ancient laws of our race compel us to admit that there may be a half-free class — men who are neither *liberi homines* nor yet *servi;* but a merely relative serfdom is a juristic curiosity. In defining it we have ever to be using the phrases, "in relation to," "as regards," "as against" — phrases which would not easily occur to the unlettered, and law which allows my serf to sue any free man but me, even to sue my lord, does not look like a natural expression of any of those deep-seated sentiments which demand that divers classes of men shall be kept asunder. Then this idea of relative servitude has to be further qualified before it will square with facts and customs and current notions of right and wrong. When a lord allows it to be recorded that on the death of his servile tenant he is entitled to the best beast, he goes very far toward admitting that he is not entitled to seize the chattels of his serf without good cause. We hesitate before we describe the serf as rightless even as against his lord, and, if we infer want of right from want of remedy, we feel that we may be doing violence to the thoughts of a generation which saw little difference between law and custom. On the whole, looking at the law of Bracton's day, we might guess that here as elsewhere the king's court has been carrying out a great work of simplification; we might even guess that its "serf-villein," rightless against his lord, free against all but his lord, is as a matter of history a composite person, a serf and a villein rolled into one.

That this simplifying process greatly improved the legal position of the serf can hardly be doubted. We need not indeed suppose that the *theow* or *servus* of earlier times had been subjected to a rigorously consistent conception of slavery. Still in the main he

had been rightless, a chattel; and we may be sure that his rightlessness had not been the merely relative rightlessness of the "serf-villein" of later days, free against all but his lord. Indeed, we may say that in the courts of the twelfth century slavery was abolished. That, on the other hand, the *villani* suffered in the process, is very likely. Certainly they suffered in name. A few of them, notably those on the king's manors, may have fallen on the right side of the Roman dilemma, *aut liberi aut servi*, and as free men holding by unfree tenure may have become even more distinctively free than they were before; but most of them fell on the wrong side: they got a bad name and were brought within the range of maxims which described the English *theow* or the Roman slave.

Probably we ought not to impute to the lawyers of this age any conscious desire to raise the serf or to debase the villein. The great motive force which directs their doings in this as in other instances is a desire for the utmost generality and simplicity. They will have as few distinctions as possible. All rights in land can be expressed by the formula of dependent tenure; all conceivable tenures can be brought under some half-dozen heads; so also the lines which have divided men into sorts and conditions may with advantage be obliterated, save one great line. All men are free or serfs; all free men are equal; all serfs are equal — no law of ranks can be simpler than that. In this instance they had Roman law to help them; but even that was not simple enough for them; the notion of *coloni* who are the serfs of a tenement rather than of a person, though it might seem to have so many points of contact with the facts of English villeinage, was rejected in the name of simplicity. They will carry through all complexities a maxim of their own, — the serf is his lord's chattel, but is free against all but his lord. They reck little of the interests of any classes, high or low; but the interests of the State, of peace and order and royal justice, are ever before them.

We have spoken at some length of the "serf-villeins" of the thirteenth century, for they formed a very large class. For several reasons precise calculations are impossible. In the first place, tenure is so much more important than status, at least so much more important as a matter of manorial economy, that the "extents" and surveys are not very careful to separate the personally free from the personally unfree. In the second place, it is highly probable that large numbers of men did not know on which side of the legal gulf they stood; they and their ancestors had been

doing services that were accounted villein, paying merchet, and so forth; but this was not conclusive, and if they escaped from their lord it might be very difficult for him to prove them his "natives." On the other hand, while they remained in his power, they could have little hope of proving themselves free, and if they fled they left their all behind them. In the third place, a great part of our information comes from the estates of the wealthiest abbeys, and while admitting to the full that the monks had no wish to ill-treat their peasantry, we cannot but believe that of all lords they were the most active and most far-sighted. Lastly, we have as yet in print but little information about certain counties which we have reason to suppose were the least tainted with servitude, about Kent (already in Edward I's time it was said that no one could be born a villein in Kent), about Norfolk and Suffolk, about the Northumbrian shires. Still, when all is said, there remain the Hundred Rolls for the counties of Bedford, Buckingham, Cambridge, Huntingdon, and Oxford, and no one can read them without coming to the conclusion that the greater half of the rural population is unfree. The jurors of various hundreds may tell us this in different ways; but very commonly by some name such as *nativi* or *servi*, by some phrase about "ransom of flesh and blood" or the like, they show their belief that taken in the lump those peasants, who are not freeholders and are not royal sokemen, are not free men.

Occasionally a man who was born a villein might find a grand career open to him. It was said that John's trusty captain, Gerard de Athée, whose name is handed down to infamy by Magna Carta, was of servile birth; in 1313 the Bishop of Durham manumitted a scholar of Merton who was already a "master"; in 1308 Simon of Paris, mercer and alderman, who had been sheriff of London, was arrested as a fugitive villein, after being required to serve as reeve of his native manor.

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Gneist, *History of the English Constitution*, chaps. vi and xx. Vinogradoff, *The Growth of the Manor*, pp. 332 ff. Stubbs, *Constitutional History of England*, Vol. I, chap. xi, §§ 124, 132.

# CHAPTER IV

## REFORMS IN CHURCH AND STATE UNDER HENRY II

THE true nature of feudalism, in its logical consequences, was demonstrated in the anarchy of Stephen's reign, and when Henry II came to the throne he found sovereign power shared by many factions and interests in the State. The Church claimed for its courts extensive jurisdiction over laymen and clergy in matters which we now regard as rightly belonging to secular powers. Furthermore, under the Hildebrandine ideas on the exalted powers of the Church, the latter claimed an independence from secular authority, which, however righteous it may have been, was regarded by the king as wholly incompatible with national unity. In addition to the great strength of the Church, there were the barons who enjoyed within their respective domains almost regal powers. Finally the governmental machinery for executing the law, maintaining police control, and administering royal justice had fallen so badly into disorder that Henry II had to reorganize it and define its sphere of action in order to make his will effective throughout his realm. In other words, the ideal towards which he was working was the subjection of all men and all institutions to the supremacy of the secular State of which the king was the personal embodiment. In this work he met the stoutest opposition in the mighty champion of the Church, Thomas Becket.

### § 1. *Thomas Becket as an Ecclesiastic*[1]

Thomas Becket, who had been selected by Archbishop Theobald as the fittest adviser of the young king, was endowed with many brilliant and serviceable gifts. He was an able man of business,

[1] Stubbs, *Constitutional History of England*, Vol. I, chap. xii. By permission of the Delegates of the Clarendon Press, Oxford.

versatile, politic; liberal even to magnificence; well skilled in the laws of England, and not deficient in the accomplishments of either clerk or knight. His singular career illustrates at once the state of the clergy at the time and his own power of adapting himself, apparently with a good conscience, to each of the three great schools of public life in turn. The clergy of the Norman reigns may be arranged under three classes: there is the man of the thoroughly secular type, like Roger of Salisbury, a minister of state and a statesman, who has received high preferment in the Church as a reward for official service; there is the professional ecclesiastic, like Henry of Winchester, who looks to the interests of the Church primarily, whose public course is dictated by regard for clerical objects, who aims at a mediatorial position in the conflicts of the State, and who has close relations with the great ecclesiastical centre at Rome; and there is, thirdly, the man who, not less patriotic than the first and not less ecclesiastical than the second, acts on and lives up to higher principles of action, and seeks first and last what seems to him to be the glory of God. This last class is represented to some extent by Anselm; it is not numerous and in an age of monastic sanctity and pretension is especially exposed to the intrusion of false brethren, such as the fanatic who is ambitious of martyrdom, or the hypocrite who will endure the risks of persecution, provided he obtains the honor of popularity. Thomas Becket lived through all three phases, and friends and enemies to the present day debate to which of the two divisions of the last class his life and death assign him. His promotion to Canterbury put an end to the first act of his career. Until then he had been the chancellor, the lawyer, judge, financier, captain, and secretary of state. Now he became the primate, the champion of the clergy, the agent or patron of the pope, whom he probably had persuaded Henry to recognize; the assertor of the rights of his Church and of his own constitutional position as first independent adviser of the crown. The date at which he resigned the chancellorship is uncertain; but it seems clear that, before Henry's return from France, he had made himself enemies among his former associates by demanding from them restitution of estates belonging to the See of Canterbury which, as he maintained, they held unjustly, and by otherwise asserting the temporal claims of his see. Henry was no doubt hurt by the resignation of the chancellor, but was scarcely prepared to find his late minister placing himself in an attitude of opposition which had no precedent in the history of the last hundred years. Anselm's





quarrels arose from spiritual questions. Those of Thomas began on a purely secular point.

### § 2. *First Dispute between Becket and the King*

The account given by the contemporary writers of this first dispute is very obscure: it concerned, however, some question of taxation in which the king was anxious to make a change beneficial to the royal revenue. Every hide of land, we are told, paid to the sheriff two shillings annually, in consideration of his services in the administration and defence of the shire. This sum the king wished to have enrolled as part of the royal revenue, intending probably to reduce, as he afterwards did, the power of the sheriffs, or to remunerate them from some other fund. A tax so described bears a strong resemblance to the Danegeld, which was an impost of two shillings on the hide, and was collected by the sheriffs, being possibly compounded for at a certain rate, and paid by them into the Exchequer. As the Danegeld from this very year (1163) ceases to appear as a distinct item of account in the Pipe Rolls, it is impossible to avoid connecting the two ideas, even if we may not identify them. Whether the king's object in making this proposition was to collect the Danegeld in its full amount, putting an end to the nominal assessment which had been long in use, and so depriving the sheriffs of such profit as they made from it, or whether he had some other end in view, it is impossible now to determine; and consequently it is difficult to understand the position taken by the archbishop. "We will not," he is recorded to have said, "my lord king, saving your good pleasure, give this money as revenue; but if the sheriffs and servants and ministers of the shires will perform their duties as they should, and maintain and defend our dependents, we will not be behindhand in contributing to their aid." The king in anger answered, "By the eyes of God, it shall be given as revenue, and it shall be entered in the king's accounts; and you have no right to contradict; no man wishes to oppress your men against your will." Becket replied, "My lord king, by the reverence of the eyes by which you have sworn, it shall not be given from my land, and from the rights of the Church not a penny." We are not told further of the immediate result; but the king and his minister never met again as friends. This is, however the details may be understood, the first case of any opposition to the king's will in the matter of taxation which is recorded in our national history.

### § 3. *The Church-State Quarrel*

Three months after in October, in the Council of Westminster, a fresh constitutional quarrel broke out. Ever since the Conqueror had divided the temporal and spiritual courts of justice, the treatment of criminal clerks had been a matter of difficulty; the lay tribunals were prevented by the ecclesiastical ones from enforcing justice, and the ecclesiastical ones were able only to inflict spiritual penalties. The reasonable compromise which had been propounded by the Conqueror himself, in the injunction that the lay officials should enforce the judgments of the bishops, had been rendered inefficacious by the jealousies of the two estates; and the result was that in many cases grossly criminal acts of clerks escaped unpunished, and gross criminals eluded the penalty of their crimes by declaring themselves clerks. The fact that the king took up the question at this moment seems to show that he was already undertaking the reform of the criminal law which he carried into effect three years after. He proposed that the anomalous state of things should cease; that clerical criminals should be brought before the temporal court and accused there; if they pleaded not guilty, they were to be tried in the ecclesiastical court; if found guilty, to be degraded there and brought back to the temporal court for punishment as laymen. Becket resisted; it was sufficient that the criminal should be degraded: if he offended again, he offended as a layman, and the king might take him; but the first punishment was sufficient for the first offence. The king on the same occasion complained heavily of the exactions of the ecclesiastical courts, and proposed to the assembled bishops that they should promise to abide by the customs which regulated those courts and the rights of the clergy generally, as they had been allowed in the days of his grandfather. The archbishop saw that to concede this unreservedly would be to place the whole of the clergy at the king's mercy; he prevailed on the bishops to assent "saving their order," and the king, irritated by the opposition, left the assembly in anger. Immediately after he ordered the archbishop to resign the honors of Eye and Berkhampstead, which had been committed to him as chancellor.

### § 4. *The Council and Constitutions of Clarendon*

After two or three unsatisfactory interviews with Becket, the king called together at Clarendon, in January, 1164, the whole body

of the bishops and barons. Again the archbishop was bidden to accept the customs in use under Henry I; and again he declined doing anything unconditionally. Then the king ordered that they should be reduced to writing, having been first ascertained by recognition. The recognitors, according to the formal record, were the archbishops, bishops, earls, barons, and most noble and ancient men of the kingdom; according to the archbishop, Richard de Lucy, the Justiciar and Jocelin de Bailleul, a French lawyer of whom little else is known, were the real authors of the document, which was presented as the result of the inquiry, and which has become famous under the name of the "Constitutions of Clarendon."

The Constitutions of Clarendon are sixteen in number, and purport to be, as the history of their production shows them to have been, a report of the usages of Henry I on the disputed points. They concern questions of advowson and presentation, churches in the king's gift, the trial of clerks, the security to be taken of the excommunicated, the trial of laymen for spiritual offences, the excommunication of tenants-in-chief, the license of the clergy to go abroad, ecclesiastical appeals, which are not to go farther than the archbishop without the consent of the king; questions of the title to ecclesiastical estates, the baronial duties of the prelates, the election to bishoprics and abbacies, the right of the king to the goods of felons deposited under the protection of the Church, and the ordination of villeins. Such of these as are of importance to our subject may be noticed elsewhere; it is enough at present to remark that, while some of the Constitutions only state in legal form the customs which had been adopted by the Conqueror and his sons, others of them seem to be developments or expansions of such customs, in forms and with applications that belong to a much more advanced state of the law. The baronial status of the bishops is unreservedly asserted, the existence of the *curia regis* as a tribunal of regular resort, the right of the bishops to sit with the other barons in the *curia* until a question of blood occurs, the use of juries of twelve men of the vicinity for criminal causes and for recognition of claims to land, all these are stated in such a way as to show that the jurisprudence of which they were a part was known to the country at large. Accordingly, the institution of the Great Assize — the edict by which the king empowered the litigant who wished to avoid the trial by battle to obtain a recognition of his right by inquest of jury — must be supposed to have been issued at an earlier period of the reign; and

the use of the jury of accusation, which is mentioned in the laws of Æthelred but only indistinctly traceable later, must have been revived before the year 1164. And if this be so, the Constitutions of Clarendon assume a character which the party statements of Becket's biographers have not allowed them. They are no mere engine of tyranny, or secular spite against a churchman: they are really a part of a great scheme of administrative reform, by which the debatable ground between the spiritual and temporal powers can be brought within the reach of common justice, and the lawlessness arising from professional jealousies abolished. That they were really this, and not an occasional weapon of controversy, may be further inferred from the rapidity with which they were drawn up, the completeness of their form, and the fact that notwithstanding the storm that followed, they formed the groundwork of the later customary practice in all such matters.

To Becket, however, and his followers they presented themselves in no such light. The archbishop had come the year before from the Council of Tours in an excited state of mind, of which the Council of Woodstock saw the first evidence. He, best of all men, must have known the beneficial effects which the kingdom at large had experienced from the king's legal measures. Yet he declared them to be incompatible with the freedom of the clergy. At last, moved by the entreaties of his brethren, whom the king's threats had frightened, he declared his acceptance of the Constitutions; but with so much reluctance and with so many circumstances on which no consistent testimony is attainable, that the impression given at the time was that he was temporizing, if not dealing deceitfully. He sent immediately to ask the forgiveness of the pope, as having betrayed the interests of the Church.

### § 5. *Despair and Flight of Becket*

From this moment the intrigues of the archbishop's enemies, intrigues for which his own conduct had given the opportunity, although it afforded no justification, left him no rest. In vain he appealed to the king: Henry was too deeply wounded to forgive, and was too determined on his own policy of reform to think of yielding; and the courtiers were resolved that no reconciliation should take place. In the following October a council was called at Northampton, to which the archbishop was summoned, not, as was the custom, by the first summons issued specially to him as the first counsellor of the crown, but by a common summons

addressed to the sheriff of Kent and ordering him to cite the archbishop to answer the claims of John the Marshall. At that council his ruin was completed; he was overwhelmed by the king's demand that he should produce the accounts of the chancery, and by the charges of his enemies. In despair of justice, in fear of his life, or in the new ambition of finishing the third phase of his career by exile or martyrdom, he fled from Northampton and soon after took refuge in France where, partly by threats of spiritual punishment, partly by intrigues, and partly by invoking the legal interference of a pope who had little sympathy with his sufferings, he conducted a struggle which fills the chronicles of the next six years.

During the greatest part of this time Henry also was absent from England. He paid a hurried visit to Normandy in 1165, and on his return made his third expedition to Wales. Early in 1166 he held a council of the clergy at Oxford, and a great assembly of the bishops and baronage at Clarendon. He had just negotiated a marriage for his eldest daughter with Henry the Lion, Duke of Saxony, who was now in close alliance with Frederic Barbarossa, and was supposed to be intending to join the party of the anti-pope. Harassed by the attacks of Becket, in want of money for the dowry of his daughter, invited by the emperor to join the schismatic party, committed to it by his own envoys, and drawn back from such a gross mistake by Earl Robert of Leicester, the Justiciar, who refused the kiss of peace to the Archbishop of Cologne when acting as the imperial ambassador, Henry showed himself still the master of the situation.

### § 6. *The Assize of Clarendon*

It is to this period that we owe the Assize of Clarendon which remodelled the provincial administration of justice, and the valuable series of documents which are contained in the Black Book of the Exchequer. Immediately after the Council of Clarendon the king went to France, where he was employed in the acquisition of Brittany and in counteracting the intrigues of Becket until March, 1170. In these years he lost some of his oldest counsellors: the empress in 1167, Geoffrey de Mandeville in 1166, Earl Robert of Leicester in 1168, and Bishop Nigel of Ely in 1169. He had, however, now gained sufficient experience in affairs to be independent of his ministers: he never again submitted to the advice of a friend such as Becket had been; and in the family of the old ministers of the Exchequer he found a number of trained clerks

who, without aspiring to influential places in the government, were skilful and experienced in every department of ministerial work. Bishop Nigel had left a son for whom he had purchased, in 1159, the office of treasurer, Richard Fitz-Neal, the author of the *Dialogus de Scaccario*, afterwards bishop of London. Another of his clerks, probably a kinsman, earned an unhappy notoriety during the Becket quarrel as Richard of Ilchester; he was a man of consummate skill in diplomacy as well as finance, acted as justiciar of Normandy, and was constantly employed as a justice and baron of the Exchequer at home. The office of chancellor was not filled up during Becket's life, some distinguished chaplain of the king usually acting as protonotary, vice-chancellor, or keeper of the seal. The office of justiciar was retained by Richard de Lucy, whose fidelity to the king, notwithstanding his devotion to the memory of Becket, and his frank determination, where he could, to assert the rights of the nation, earned him the honorable title of Richard de Lucy the Loyal.

The credit of having drawn up the Assize of Clarendon must be divided between the king and his advisers. Whether or no it owes some part of its importance to the loss of the legal enactments that had preceded it, it is the most important document of the nature of law, or edict, that has appeared since the Conquest; and, whether it be regarded in its bearing on legal history, or in its ultimate constitutional results, it has the greatest interest. The council in which it was passed is described as consisting of the archbishops, bishops, abbots, earls, and barons of all England; Becket, however, was not present, and the assembly probably, amongst its minor acts, issued some sentence against him and his relations. The Assize contains no mention of him. It is arranged in twenty-two articles, which were furnished to the judges about to make a general provincial visitation. Of these, the first six describe the manner in which the presentment of criminals to the courts of the justices or the sheriff is henceforth to be made. Inquest is to be held, and juries of twelve men of the hundred, and four men of the township, are to present all persons accused of felony by public report; these are to go to the ordeal, and to fare as that test may determine. By the other articles all men are directed to attend the county courts, and to join, if required, in these presentments; no franchise is to exclude the justices, and no one may entertain a stranger for whom he will not be responsible before them; an acknowledgment made before the hundred court cannot be withdrawn before the justices: even the result of the ordeal is not to





save from banishment the man of bad character who has been presented by the inquest; one sheriff is to assist another in the pursuit and capture of fugitives. The sessions of the justices are to be held in full county court. Two curious articles touching the ecclesiastical relations of the State follow; no convent or college is to receive any of the mean people into its body without good testimony as to character, and the heretics condemned at the recent Council of Oxford are to be treated as outlaws. The Assize is to hold good so long as the king shall please.

In this document we may observe several marks of the permanence of the old common law of the country. Not only is the agency of the shire-moot and hundred-moot — the four best men of the township, and the lord with his steward — applied to the execution of the edict, but the very language of the ancient laws touching strangers and fugitive felons is repeated. The inquest itself may be native or Norman, but there is no doubt as to the character of the machinery by which it is to be transacted. In the article which directs the admission of the justices into every franchise may be detected one sign of the anti-feudal policy which the king had all his life to maintain.

### § 7. *Judicial Visitations*

The visitation took place in the spring and summer of 1166; two justices, the Earl of Essex and Richard de Lucy, travelled over the whole country, and the proceeds of their investigations swell the accounts of the Pipe Roll of the year to an unusual size. The enormous receipts under the heads of placita, the chattels of those who failed in the ordeal, fines exacted from the men who refused to swear under the king's assize, the goods of those hanged under the Assize of Clarendon, the expenses of the jails which the Assize ordered to be built or to be put in good repair, mark the accounts of this and several succeeding years. These entries, which have nothing corresponding with them in the rolls of the earlier years, seem to suggest the conclusion that the act from which they resulted was really a great measure of innovation: an attempt to invigorate the local administration of justice, and the initiative measure of a newly developed principle of judicial process, a distinct step forwards in the policy of bringing the royal jurisdiction into close connection with the popular courts, and thus training the nation to the concentration of the powers of the people in the representative Parliaments of later ages.

The immediate results of the Assize were by no means transient; the visitation of 1166 was followed by an itinerant survey of the forests in 1167, and in 1168 by a thorough circuit of the shires, held by the barons of the Exchequer mainly for the purpose of collecting the aid which Henry demanded for the marriage of his eldest daughter. It is not improbable that the discussion of this aid took place in the Council of Clarendon in 1166, for Henry was not in England between that date and the time when the money was collected; but it is possible that it was taken as a matter of course under the recognized feudal principles in such cases. The assessment was one mark on the knight's fee; and the number of knights' fees on which it was assessed was certified by the land-owners themselves. The collection of the money occupied the barons for two years, and, as appears from the action of the next year, did not satisfy the king, whilst it called forth great complaints on the part of the people. The visitation of the barons was used for judicial as well as financial purposes, the sheriffs had great opportunity of enforcing justice as well as of making perquisites, and the exaction, following so close on the severe assize of 1166 led men not unreasonably to regard the mechanism employed for the repression of crime as one of a series of expedients for increasing the receipts of the Exchequer. The murmurs of the people reached the king in Normandy; and he had by this time other reasons for paying a visit to England.

### § 8. *The Inquest of Sheriffs*

He was now thoroughly weary of the Becket controversy, and the pertinacious underhand hostility of Lewis VII. He had succeeded in compelling the Bretons to submit to Geoffrey, his third son, whom he had married to the heiress of Count Conan; and he was anxious to obtain for his son Henry the right to govern England as viceroy or sharer in the rights of the crown, which could be conferred only by the rite of coronation. With this object in view he returned in March, 1170, and held a great court at Easter at Windsor, and another immediately after at London. In the second assembly, which coincided probably with the Easter session of the Exchequer, he, by an extraordinary act of authority, removed all the sheriffs of the kingdom from their offices, and issued a commission of inquiry into their receipts, which was to report to him on the 14th of June, the day fixed for the coronation of the younger Henry. The commission of inquiry, the text of





which is extant, contains thirteen articles, which specify both the matters to be investigated and the particular method by which the information is to be obtained. The barons to whom it is intrusted are to take the oaths of all the barons, knights, and freeholders of each county, and to receive their evidence as to the receipts of the sheriffs and the whole staff of their servants, of the bishops and the whole host of their temporal officers, of all the special administrators of the royal demesne, of the itinerant officers of the Exchequer, and of all others who have had the opportunity of touching the public money; in particular, inquiry is to be made into the execution of the Assize of Clarendon, whether it has been justly enforced, and whether the officers employed in it have taken bribes or hush money; into the collection of the aid *pur fille marier*, and into the profits of the forests; a supplementary article directs inquiry into the cases in which homage due to the king and his son has not been paid. The great amount of business which thus accrued could not be despatched in so short a time by the same staff of officers; the inquest was taken by twelve "barons errant," clerk and lay, in the counties nearest London, and by similar large commissions in the more distant shires; they were probably composed mainly of the baronage of the district, who would naturally scrutinize with some jealousy the proceedings of both the sheriffs and the judges. The result was apparently the acquittal of the officials; whether or no this was obtained by purchase, no further proceedings were taken against them, but the sheriffs were not restored to their sheriffdoms, and had no further opportunity given them of making their office a stepping-stone to greater wealth and position. Henry placed in the vacant magistracies the officers of the Exchequer whom he knew and trusted, adopting in this respect the plan of his grandfather, who had used his judges for sheriffs, although he avoided throwing too many of the counties into any single hand; the *curia regis* and the shire thus are brought closer together than ever, whilst a blow is struck at the local influence of the feudal lords.

### § 9. *The Death of Becket*

The Whitsuntide of 1170 was, however, marked by a more critical event than the inquest of sheriffs. The heir was crowned as Henry III; the ceremony was performed not by Thomas of Canterbury, but by Roger of York, and the wife of the young king was not crowned with him. This act, which was intended by Henry as a

sign and seal of power, was a most unfortunate mistake. He had, not unnaturally, supposed that it would strengthen the supreme authority to have in each division of his dominions a sufficient representative of royal majesty; he found that he had placed a dangerous weapon in the hands of an undutiful son. The minor irregularities of the coronation day roused his enemies to frenzy; Thomas Becket asserted that the rights of Canterbury, of the English Church, of Christianity itself, were outraged by Archbishop Roger's intrusion; and Lewis VII, hurt at the neglect of his daughter, and backed by the support of the family of Champagne, who combined careful orthodoxy with intense hatred of the house of Anjou, urged the pope to put the kingdom under interdict. Before these invitations took effect, Henry, alarmed as he might well be, hastened into France, reconciled his long quarrel with the archbishop, and authorized his return. Becket returned in December, excommunicated the opposing bishops, provoked the king to utter his angry and hasty wish to be rid of him, and expiated his imprudent and unchristian violence by a cruel death, on the 29th of December, 1170.

He was at once hailed as a martyr by Lewis VII and the house of Champagne; the monks of Canterbury were ready to accept him as their patron saint after death, although they had cared little about him during his life; the tide of miracle began to flow immediately, and with it the tide of treason and disaffection around the person of the king.

Henry's anger and horror at the murder of the archbishop — an act which showed in its perpetrators not only great brutality, but a profound disregard for the king's reputation and for the public safety — urged him to apply at once in self-defence to Rome. That done, he must keep out of the way of the hostile legation which had been despatched to Normandy. He collected his forces in the duchy, crossed to England in August, 1171, and thence to Ireland, where he remained, receiving the homages of the bishops and princes of that divided country, until he heard that the legates who were sent to absolve him had arrived in Normandy. This was in March, 1172. On receiving the news he returned as rapidly as he had come, made his submission to the papal representatives, clearing himself by oath of all complicity in the death of Becket, renouncing the Constitutions of Clarendon, and swearing adhesion to Alexander III against the anti-pope. The submission was completed at Avranches in September. As one portion of the pacification, the younger Henry was crowned a second time, on

this occasion in company with his wife, at Winchester instead of Westminster, and by the Archbishop of Rouen instead of the Archbishop of York. The long storm seemed to have ended in a profound calm. . . .

### § 10. *Henry II as King and Administrator*

The examination of the administrative measures of Henry in the order of their adoption is necessary to enable us to realize at once the development of his policy, and the condition of affairs which compelled it. Nor, although in the investigation much detail is needed which at first sight seems irrelevant to the later or to the more essential history of the Constitution, is the minute inquiry to be set aside as superfluous. Henry II was, it is true, far more than an inventor of legal forms or of the machinery of taxation. He was one of the greatest politicians of his time; a man of such wide influence, great estates, and numerous connections, that the whole of the foreign relations of England during the Middle Ages may be traced directly and distinctly to the results of his alliances and his enmities. He was regarded by the Emperor Frederick, by the kings of Spain and Sicily, by the rising republics of Lombardy, by the half-savage dynasts of Norway, and by the fainting realm of Palestine, as a friend and a patron to be secured at any cost. He refused the crowns of Jerusalem and Sicily; he refused to recognize the anti-pope at a moment when the whole influence of the papacy was being employed to embarrass and distress him. His career is full of romantic episodes, and of really great physical exploits.

Yet the consent of the historians of the time makes him, first and foremost, a legislator and administrator. Ralph Niger, his enemy, tells how year after year he wore out men's patience with his annual assizes; how he set up an upstart nobility; how he abolished the ancient laws, set aside charters, overthrew municipalities, thirsted for gold, overwhelmed all society with his scutages, his recognitions, and such like. Ralph de Diceto explains how necessary a constant adaptation and readjustment of means was to secure in any degree the pure administration of justice, and lauds the promptness with which he discarded unsatisfactory measures to make way for new experiments. William of Newburgh and Peter of Blois praise him for the very measures that Ralph Niger condemns; his exactions were far less than those of his successors; he was most careful of the public peace; he bore the sword for the

punishment of evil-doers, but to the peace of the good; he conserved the rights and liberties of the Church; he never imposed any heavy tax on either England or his continental estates, or grieved the Church with undue exactions; his legal activity was especially meritorious after the storm of anarchy which preceded. In every description of his character the same features recur, whether as matters of laudation or of abuse.

The question already asked recurs, How many of the innovating expedients of his policy were his own? Some parts of it bear a startling resemblance to the legislation of the Frank emperors, his institution of scutage, his assize of arms, his inquest of sheriffs, the whole machinery of the jury which he developed and adapted to so many different sorts of business — almost all that is distinctive of his genius is formed upon Karolingian models, the very existence of which within the circle of his studies or of his experience we are at a loss to account for. It is probable that international studies in the universities had attained already an important place; that the revived study of the Roman law had invited men to the more comprehensive examination of neighboring jurisprudence. But whilst the Roman law met with a cold reception in England, and whilst the minutiæ of feudal legislation as it was then growing up gained admission only at a later period, and were under Henry repressed rather than encouraged, we here and there come across glimpses of the imperial system which had died out on the soil from which it sprang.

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# CHAPTER V

## THE TRUE NATURE OF MAGNA CARTA

No document in the history of institutions is more famous than Magna Carta. Generation after generation of Englishmen looked back upon it as the fountain of their liberties and read into its general clauses the authority for new claims and privileges which rose from time to time. As a result of this re-reading of the Charter in the light of the interests of succeeding ages, there grew up around it a mass of tradition that obscured its original meaning. It is comparatively recently that scholars have begun to recognize that the document must be studied, not in the light of modern ideas on personal, civil, and political rights, but rather in the light of mediæval law and custom. A casual reading of the document will lead to innumerable erroneous conclusions; each clause is thorny with difficult problems; and the fundamental character of the document itself is in dispute. The most recent and authoritative commentary on Magna Carta is by Dr. McKechnie, to whose work every cautious student will turn before venturing hasty conclusions on the meaning of the respective clauses.

### § 1. *Former Views on the Character of Magna Carta* [1]

Does the Great Charter really, as the orthodox traditional view so vehemently asserts, protect the rights of the whole mass of humble Englishmen equally with those of the proudest noble? Is it really a great bulwark of the constitutional liberties of the nation, considered as a nation, in any broad sense of that word? Or is it rather, in the main, a series of concessions to feudal selfishness wrung from the king by a handful of powerful aristocrats? On such questions, learned opinion is sharply divided, although an

[1] McKechnie, *Magna Carta*, pp. 130 ff. By permission of Dr. McKechnie and The Macmillan Company, New York.

overwhelming majority of authorities range themselves on the popular side, from Coke (who assumes in every page of his Second Institute that the rights won in 1215 were as valuable for the villein as for the baron) down to writers of the present day. Lord Chatham, in one of his great orations, insisted that the barons who wrested the Charter from John established claims to the gratitude of posterity because they "did not confine it to themselves alone, but delivered it as a common blessing to the whole people"; and Sir Edward Creasy, in citing Chatham's words with approval, caps them with more ecstatic words of his own, declaring that one effect of the Charter was "to give and to guarantee full protection for property and person to every human being that breathes English air." Lord Chatham, indeed, spoke with the unrestrained enthusiasm of an orator; yet staid lawyers and historians like Blackstone and Hallam seem to vie with him in similar expressions. "An equal distribution of civil rights to all classes of freemen forms the peculiar beauty of the charter," so we are told by Hallam. Bishop Stubbs unequivocally enunciated the same doctrine. "Clause by clause the rights of the commons are provided for as well as the rights of the nobles. . . . This proves, if any proof were wanted, that the demands of the barons were no selfish exactions of privilege for themselves."

Dr. Gneist is of the same opinion. "Magna Carta was a pledge of reconciliation between all classes. Its existence and ratification maintained for centuries the notion of fundamental rights as applicable to all classes in the consciousness that no liberties would be upheld by the superior classes for any length of time, without guarantees of personal liberties for the humble also."

"The rights which the barons claimed for themselves," says John Richard Green, before proceeding to enumerate them, "they claimed for the nation at large." The testimony of a very recent writer, Dr. Hannis Taylor, may close this series. "As all three orders participated equally in its fruits, the great act at Runnymede was in the fullest sense of the term a national act, and not a mere act of the baronage on behalf of their own special privileges." It would be easy to add to this "cloud of witnesses," but enough has been said to prove that it has been a common boast of Englishmen, for many centuries, that the provisions of the Great Charter were intended to secure, and did secure, the liberties of every class and individual of the nation, not merely those of the feudal magnates on whose initiative the quarrel was raised.





It must not be forgotten, however, that the truth of historical questions does not depend on the counting of votes, or the weight of authority; nor that a vigorous minority has always protested on the other side. "It has been lately the fashion," Hallam confesses, "to depreciate the value of Magna Carta, as if it had sprung from the private ambition of a few selfish barons, and redressed only some feudal abuses." It is not safe to accept, without a careful consideration of the evidence, the opinions cited even from such high authorities. "Equality" is essentially a modern ideal: in 1215, the various estates of the realm may have set out on the journey which was ultimately to lead them to this conception, but they had not yet reached their goal. For many centuries after the thirteenth, class legislation maintained its prominent place on the Statute Rolls, and the interests of the various classes were by no means always identical.

### § 2. *Who Were "Freemen" in* 1215

Two different parts of the Charter have a bearing on this question; namely, chapter 1, which explains to whom the rights were granted, and chapter 61, which declares by whom they were to be enforced. John's words clearly tell us that the liberties were confirmed "to all the freemen of my kingdom and their heirs forever." This opens up the crucial question, — Who were freemen in 1215?

The enthusiasm, natural and even laudable in its proper place, although fatal to historical accuracy in its results, which seeks to enhance the merits of Magna Carta by exalting its provisions, and extending their scope as widely as possible, has led commentators to stretch the meaning of "freemen" to its utmost limits. The word has even been treated as embracing the entire population of England, including not only churchmen, merchants, and yeomen, but even villeins as well. There are reasons, however, for believing that it should be understood in a sense much more restricted, although the subject is darkened by the vagueness of the word, and by the difficulty of determining whether it bears any technical signification or not. "Homo," in mediæval law-Latin, has a peculiar meaning, and was originally used as synonymous with "baro" — all feudal vassals, whether of the crown or of mesne lords, being described as "men" or "barons." The word was sometimes indeed more loosely used, as may have been the case in chapter 1. Yet Magna Carta is a feudal charter, and the pre-

sumption is in favor of the technical feudal meaning of the word — a presumption certainly not weakened by the addition of an adjective confining it to the "free." This qualifying word certainly excluded villeins, and possibly also the great burgess class, or many of them.

There is a passage in the *Dialogus de Scaccario* (dating from the close of the reign of Henry II) in which Richard Fitz-Nigel reckons even the richest burgesses and traders as not fully free. He discusses the legal position of any knight (*miles*) or other freeman (*liber homo*), losing his status by engaging in commerce in order to make money. This does not prove that rich townsmen were ranked with the *villani* of the rural districts; but it does raise a serious doubt whether in the strict legal language of feudal charters the words *liberi homines* would be interpreted by contemporary lawyers as including the trading classes. Such doubts are strengthened by a narrow scrutiny of those passages of the Charter in which the term occurs. In chapter 34 the *liber homo* is, apparently, assumed to be a landowner with a private manorial jurisdiction of which he may be deprived. In other words, he is the holder of a freehold estate of some extent — a great barony or, at the least, a manor. In this part of the Charter the "freeman" is clearly a county gentleman.

Is the "freeman" of chapter 1 something different? The question must be considered an open one; but much might be said in favor of the opinion that "freeman" as used in the Charter is synonymous with "freeholder"; and that therefore only a limited class could, as grantees or the heirs of such, make good a legal claim to share in the liberties secured by Magna Carta.

### § 3. *The Character of the Men Bound to Enforce the Charter*

To the question, Who had authority to enforce its provisions? the Great Charter has likewise a clear answer; namely, a select band or quasi-committee of twenty-five barons. Although the mayor of London was chosen among their number, it is clear that no strong support for any democratic interpretation of Magna Carta can be founded on the choice of executors, since these formed a distinctly aristocratic body. Yet this tendency to vest power exclusively in an oligarchy composed of the heads of great families may have been counteracted, so it is possible to contend, by the invitation extended by the same chapter to the *communa totius terræ* to assist the twenty-five executors against the king in the

event of his breaking faith. Unfortunately, the extreme vagueness of the phrase makes it rash in a high degree to build conclusions on such foundations. It is possible to interpret the words *communa totius terræ* as applying merely to "the community of freeholders of the land," or even to "the community of barons of the land," as well as to "the community of all the estates (including churchmen, merchants, and commons) of the land," as is usually done on no authority save conjecture. Every body of men was known in the thirteenth century as a *communa;* a word of exceedingly loose connotation.

### § 4. *Relation of the Charter to the Classes*

So far, our investigations by no means prove that the equality of all classes, or the equal participation by all in the privileges of the Charter, was an ideal, consciously or unconsciously, held by the leaders of the revolt, against King John. Magna Carta itself contains evidences which point the other way; namely, to the existence of class legislation. At the beginning and end of the Charter, clauses are carefully inserted to secure to the Church its "freedom" and privileges; churchmen, in their special interests, must be safeguarded, whoever else may suffer. "Benefit of clergy," thus secured, implies the very opposite of "equality before the law." Other interests also receive separate and privileged treatment. Many, perhaps most, of the chapters have no value except to landowners; a few affect tradesmen and townsmen exclusively, while chapters 20 to 22 adopt distinct sets of rules for the amercement of the ordinary freeman, the churchman, and the earl or baron, respectively — an anticipation, almost, of the later division into the three estates of the realm — commons, clergy, and lords temporal. A careful distinction is occasionally made (for example, in chapter 20) between the freeman and the villein, and the latter (as will be proved later on) was carefully excluded from many of the benefits conferred on others by Magna Carta. In this connection it is interesting to consider how each separate class would have been affected if John's promises had been loyally kept.

(1) *The Feudal Aristocracy.* — Even a casual glance at the clauses of the Great Charter shows how prominently abuses of feudal rights and obligations bulked in the eyes of its promoters. Provisions of this type must be considered chiefly as concessions to the feudal aristocracy, although it is true that the relief

primarily intended for them indirectly benefited other classes as well.

(2) *Churchmen.* — The position of the Church is easily understood when we neglect the privileges enjoyed by its great men *quâ* barons rather than *quâ* prelates. The special Church clauses found no place whatsoever in the Articles of the Barons, but bear every appearance of having been tacked on as an after-thought, due probably to the influence of Stephen Langton. Further, they are mainly confirmatory of the separate Charter already twice granted within the few preceding months. The National Church indeed, with all its patriotism, had been careful to secure its own selfish advantages before the political crisis arrived.

(3) *Tenants of Mesne Lords.* — When raising troops with the object of compelling John to grant Magna Carta by parade of armed might, the barons were perforce obliged to rely on the loyal support of their own freeholders. It was essential that the knights and others who held under them should be ready to fight for their mesne lords rather than for the king, their lord paramount. It was thus absolutely necessary that these under-tenants should receive some recognition of their claims in the provisions of the final settlement. Concessions conceived in their favor are contained in two clauses (couched apparently in no specially generous spirit); namely, chapters 15 and 60. The former limits the number of occasions on which aids might be extorted from subtenants by their mesne lords to the same three as were recognized in the case of the crown. Less than this the barons could scarcely have granted. Chapter 60 provides generally, in vague words, that all the customs and liberties which John agrees to observe towards his vassals shall be also observed by mesne lords, whether prelates or laymen, towards their subvassals. This provision has met with a chorus of applause from modern writers. Professor Prothero declares that "the subtenant was in all cases as scrupulously protected as the tenant-in-chief." Dr. Hannis Taylor is even more enthusiastic. "Animated by a broad spirit of generous patriotism, the barons stipulated in the treaty that every limitation imposed for their protection upon the feudal rights of the king should also be imposed upon their rights as mesne lords in favor of the under-tenants who held them." It must, however, be remembered that a vague general clause affords less protection than a definite specific privilege; and that in a rude age such a general declaration of principle might readily be infringed when occasion arose. The barons were compelled to do some-

thing, or to pretend to do something, for their under-tenants. Apparently they did as little as they, with safety or decency, could.

(4) Something was also done for the merchant and trading classes, but, when we subtract what has been read into the Charter by democratic enthusiasts of later ages, not so much as might reasonably be expected in a truly national document. The existing privileges of the great city of London were confirmed, without specification, in the Articles of the Barons; and some slight reforms in favor of its citizens (not too definitely worded) were then added. An attentive examination seems to suggest, however, that these privileges were carefully refined away when the Articles were reduced to their final form in Magna Carta. The right to tallage London and other towns was carefully reserved to the crown, while the rights of free trading granted to foreigners were clearly inconsistent with the policy of monopoly and protection dear to the hearts of the Londoners. A mere confirmation to the citizens of existing customs, already bought and paid for at a great price, seems but a poor return for the support given by them to the movement of insurrection at a critical moment when John was bidding high on the opposite side, and when their adherence was sufficient to turn the scale. The marvel is that so little was done for them.

(5) The relation of the villein to the benefits of the Charter has been hotly discussed. Coke claims for him, in regard to the important provisions of chapter 39 at least, that he must be regarded as a *liber homo*, and therefore as a full participant in all the advantages of this clause. This contention is not well founded. Even admitting the relativity of the word *liber* in the thirteenth century, and admitting also that the villein performed some of the duties, if he enjoyed none of the rights of the free-born, still the formal description *liber homo*, when used in a feudal charter, cannot be stretched to cover those useful manorial chattels that had no recognized place in the feudal scheme of society or in the political constitution of England, however necessary they might be in the scheme of the particular manor to the soil of which they were attached.

Even if we exclude the villein from the general benefits of the grant, it may be, and has been, maintained that some few privileges were insured to him in his own name. One clause, at least, is specially framed for his protection. The villein, so it is provided in chapter 21, must not be so cruelly amerced as to leave

him utterly destitute; his plough and its equipment must be saved to him.. Such concessions, however, are quite consistent with a denial of all political rights, and even of all civil rights, as these are understood in a modern age. The Crown and the magnates, so it may be urged, were only consulting their own interests when they left the villein the means to carry on his farming operations, and so to pay off the balance of his debts in the future. The closeness of his bond to the lord of his manor made it impossible to crush the one without slightly injuring the other. The villein was protected, not as the acknowledged subject of legal rights, but because he formed a valuable asset of his lord. This attitude is illustrated by a somewhat peculiar expression used in chapter 4, which prohibited injury to the estate of a ward by "waste of men or things." For a guardian to raise a villein to the status of a freeman was to benefit the enfranchised peasant at the expense of his young master.

Other clauses both of John's Charter and of the various reissues show scrupulous care to avoid infringing the rights of property enjoyed by manorial lords over their villeins. The king could not amerce other people's villeins harshly, although those on his own farms might be amerced at his discretion. Chapter 16 while carefully prohibiting any arbitrary increase of service from freehold property, leaves by inference all villein holdings unprotected. Then the "farms" or rents of ancient demesne might be arbitrarily raised by the crown, and tallages might be arbitrarily taken (measures likely to press hardly on the villein class). The villein was deliberately left exposed to the worst forms of purveyance, from which chapters 28 and 30 rescued his betters. The horses and implements of the *villanus* were still at the mercy of the crown's purveyors. The re-issue of 1217 confirms this view; while demesne wagons were protected, those of the villeins were left exposed. Again, the chapter which takes the place of the famous chapter 39 of 1215 makes it clear that lands held in villeinage are not to be protected from arbitrary disseizin or dispossession. The villein was left by the common law merely a tenant-at-will, — subject to arbitrary ejectment by his lord, — whatever meagre measure of protection he might obtain under the "custom of the manor," as interpreted by the court of the lord who oppressed him.

Even if it were possible to neglect the significance of any one of these somewhat trivial points, when all of them are placed side by side, their meaning is clear. If the bulk of the English peas-





antry were protected at all by Magna Carta, that was merely because they formed valuable assets of their lords. The Charter viewed them as "villeins regardant" — as chattels attached to a manor, not as members of an English commonwealth.

The general conclusion to be derived from this survey is that, while much praise may be due to the baronial leaders for their comparatively liberal interest in the rights of others, they are scarcely entitled to the excessive laudation they have sometimes received.

The rude beginnings of many features which have since come into prominence in English institutions (such as the conceptions of patriotism and nationality, and the principles of equality before the law, and the tender regard for the rights of the humble) may possibly be found in the germ in some parts of the completed Charter; but the Articles of the Barons were what their name implies, — a baronial manifesto, seeking chiefly to redress the grievances of the promoters, and mainly selfish in motive.

### § 5. *The Great Charter as a Prominent Landmark*

Yet, when all deductions have been made (and it has seemed necessary to do this with emphasis in order to redress the false balance created by the exaggerations of enthusiasts), the Great Charter still stands out as a prominent landmark in the sequence of events which have led in an unbroken chain to the consolidation of the English nation, and to the establishment of a free and constitutional form of polity upon a basis so enduring that, after more than eight centuries of growth, it still retains the vigor and buoyance of youth.

No evidence survives to show that the men of John's reign placed any excessive or exaggerated importance on the Great Charter; but, without a break since then, the estimate of its worth steadily increased until it came to be regarded almost as a fetich among English lawyers and historians. No estimate of its value can be too high, and no words too emphatic or glowing to satisfy its votaries. In many a time of national crisis, Magna Carta has been confidently appealed to as a fundamental law too sacred to be altered — as a talisman containing some magic spell, capable of averting national calamity.

Are these estimates of its value justified by facts, or are they gross exaggerations? Did it really create an epoch in English history? If so, wherein did its importance exactly lie?

### § 6. *Intrinsic Merits of the Charter*

The numerous factors which contributed towards the worth of Magna Carta may be distinguished as of two kinds, intrinsic and extrinsic. (1) Its intrinsic value depends on the nature of its own provisions. The reforms demanded by the barons and granted by this Charter were just and moderate. The avoidance of all extremes tended towards a permanent settlement, since moderation both gains and keeps adherents. Its aims were practical as well as moderate; the language in which they were framed, clear and straightforward. A high authority has described the Charter as "an intensely practical document." This practicality is an essentially English characteristic, and strikes the keynote of almost every great movement for reform which has held a permanent place in English history. Closely connected with this feature is another, the essentially *legal* nature of the whole. As Magna Carta was rarely absent from the minds of subsequent opponents of despotism, a practical and legal direction was thus given to the efforts of Englishmen in many ages. Therein lies another English characteristic. While democratic enthusiasts in France and America have often sought to found their rights and liberties on a lofty but unstable basis of philosophical theory embodied in Declarations of Rights, Englishmen have occupied lower but surer ground, aiming at practical remedies for actual wrongs, rather than enunciating theoretical platitudes with no realities to correspond.

Another intrinsic merit of the Charter was that it made definite what had been vague before. Definition is a valuable protection for the weak against the strong; whereas vagueness increases the powers of the tyrant who can interpret while he enforces the law. Misty rights were now reduced to a tangible form, and could no longer be broken with so great impunity. Magna Carta contained no crude innovations, and confirmed many principles whose value was enhanced by their antiquity. King John, in recognizing parts of the old Anglo-Saxon customary law, put himself in touch with national traditions and the past history of the nation. Further, the nature of the provisions bears witness to the broad basis on which the settlement was intended to be built. The Charter, notwithstanding the prominence given to the redress of feudal grievances, redressed other grievances as well. In this, the influence of the Church, and notably of its primate, can be traced.





Some little attention was given to the rights of the under-tenants also, and even to those of the merchants, while the villein and the alien were not left entirely unprotected. Thus the settlement contained in the Charter had a broad basis in the affection of all classes.

### § 7. *Possible Exaggeration of the Charter as a Triumph over Absolutism*

(2) Part of the value of Magna Carta may be traced to extrinsic causes; to the circumstances which gave it birth; to its vivid historical setting. The importance of each one of its provisions is emphasized by the object-lessons which accompanied its inauguration. The whole of Christendom was amazed by the spectacle of the king of a great nation obliged to surrender at discretion to his own subjects, and that, too, after he had scornfully rejected all suggestions of a compromise. The fact that John was compelled to accept the Charter meant a loss of royal prestige and also great encouragement to future rebels. What once had happened, might happen again; and the humiliation of the king was stamped as a powerful image on the minds of future generations.

Such considerations almost justify enthusiasts, who hold that the granting of Magna Carta was the turning-point in English history. Henceforward it was more difficult for the king to invade the rights of others. Where previously the vagueness of the law lent itself to invasion, its clear restatement and ratification in 1215 pinned down the king to a definite issue. He could no longer plead that he sinned in ignorance; he must either keep the law or openly defy it — no middle course was possible.

When all this has been said, it may still be doubted whether the belief of enthusiasts in the excessive importance of Magna Carta has been fully justified. Many other triumphs, almost equally important, have been won in the cause of liberty, and under circumstances almost equally notable, and many statutes have been passed embodying these. Why, then, should Magna Carta be invariably extolled as the palladium of English liberties? Is not, when all is said, the extreme merit attributed to it mainly of a sentimental or imaginative nature? Such questions must be answered partly in the affirmative. Much of its value does depend on sentiment. Yet all government is, in a sense, founded upon sentiment — sometimes affection, sometimes fear.

Psychological considerations are all-powerful in the practical affairs of life. Intangible and even unreal phenomena have played an important part in the history of every nation. The tie that binds the British colonies at the present day to the mother country is largely one of sentiment; yet the troopers from Canada and New Zealand who responded to the call of Britain in her hour of need produced practical results of an obvious nature. The element of sentiment in politics can never be ignored.

### § 8. *Value of the Charter to Later Generations*

It is no disparagement to Magna Carta, then, to confess that part of its powers has been read into it by later generations, and lies in the halo, almost of romance, which has gradually gathered round it in the course of centuries. It became a battle-cry for future ages, a banner, a rallying point, a stimulus to the imagination. For a king, thereafter, openly to infringe the promises contained in the Great Charter, was to challenge the bitterness of public opinion — to put himself palpably in the wrong. For an aggrieved man, however humble, to base his rights upon its terms was to enlist the warm sympathy of all. Time and again, from the Barons' War against Henry III, to the days of John Hampden and Oliver Cromwell, the possibility of appealing to the words of Magna Carta has afforded a practical ground for opposition; an easily intelligible principle to fight for; a fortified position to hold against the enemies of the national freedom. The exact way in which this particular document — dry as its details at first sight may seem — has, when considered as a whole, fired the popular imagination, is difficult to determine. Such a task lies rather within the sphere of the student of psychology than of the student of history, as usually conceived. However difficult it may be to explain this phenomenon, there is no doubt of its existence. The importance of the Great Charter, originally flowing both from the intrinsic and from the extrinsic features already described, has greatly increased, as traditions, associations, and aspirations have clustered more thickly round it. These have augmented in each succeeding age the reverence in which it has been held, and have made ever more secure its hold upon the popular imagination.

Thus Magna Carta, in addition to its legal value, has a political value of an equally emphatic kind. Apart from and beyond the salutary effect of the many useful laws it contained,

its moral influence has contributed to a marked advance of the national spirit, and therefore of the national liberties. A few of the aspects of this advance deserve to be emphasized. The king, by granting the Charter in solemn form, admitted that he was not an absolute ruler; admitted that he had a master over him in the laws which he had often violated, but which he now swore to obey. Magna Carta has thus been truly said to enunciate and inaugurate "the reign of law" or "the rule of law" in the phrase made famous by Professor Dicey.

### § 9. *The Charter as a "Turning-point"*

It marks also the commencement of a new grouping of political forces in England; indeed, without such an arrangement the winning of the Charter would have been impossible. Throughout the reign of Richard I the old tacit understanding between the king and the lower classes had been endangered by the heavy drain of taxation; but the actual break-up of the old alliance only came in the crisis of John's reign. Henceforward can be traced a gradual change in the balance of parties in the commonwealth. No longer are crown and people united, in the name of law and order, against the baronage, standing for feudal disintegration. The mass of humble free men and the Church are for the moment in league with the barons, in the name of law and order, against the crown, recently become the chief law-breaker.

The possibility of the existence of such an alliance, even on a temporary basis, involved the adoption by its chief members of a new baronial policy. Hitherto each great baron had aimed at his own independence or aggrandizement, striving on the one hand to gain new franchises for himself, or to widen the scope of those he already had; and on the other to weaken the king and to keep him outside these franchises. This policy, which succeeded both in France and in Scotland, had before John's reign already failed signally in England, and the English barons now, on the whole, came to admit the hopelessness of renewing the struggle for feudal independence. They substituted for this ideal of an earlier age a more progressive policy. The king, whose interference they could no longer hope completely to shake off, must at least be taught to interfere justly and according to rule; he must walk only by law and custom, not by the caprices of his evil heart. The barons sought henceforward to control the royal power they could not exclude; they desired some determining share in

the National Councils, if they could no longer hope to create little nations of their own within the four corners of their fiefs. Magna Carta was the fruit of this new policy.

It has been often repeated, and with truth, that the Great Charter marks also a stage in the growth of national unity or nationality. Here, however, it is necessary to guard against exaggeration. It is merely one movement in a process, rather than a final achievement. We must somewhat discount, while still agreeing in the main with, statements which declare the Charter to be "the first documentary proof of the existence of a united English nation"; or with the often-quoted words of Dr. Stubbs, that "the Great Charter is the first great public act of the nation, after it has realized its own identity."

A united English nation, whether conscious or unconscious of its identity, cannot be said to have existed in 1215, except under several qualifications. The conception of "nationality," in the modern sense, is of comparatively recent origin, and requires that the lower as well as the higher classes should be comprehended within its bounds. Further, the coalition which wrested the Charter from the royal tyrant was essentially of a temporary nature, and quickly fell to pieces again. Even while the alliance continued, the interests of the various classes, as has been already shown, were far from identical. Political rights were treated as the monopoly of the few (as is evidenced by the retrograde provisions of chapter 14 for the composition of the *commune concilium*); and civil rights were far from universally distributed. The leaders of the "national" movement certainly gave no political rights to the despised villeins, who comprised more than three-quarters of the entire population of England; while their civil rights were almost completely ignored in the provisions of the Charter.

Magna Carta undoubtedly marked one step, an important step, in the process by which England became a nation; but that step was neither the first nor yet the final one.

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## CHAPTER VI

### THE ORIGIN OF PARLIAMENT

mpts of the barons to control the actions of the crown
ition of royal rights in Magna Carta were far from
Likewise the efforts of the barons to establish an
uch as that defined in the Provisions of Oxford
inster in the reign of Henry III, failed to secure
and stable government. The expenses of royal
were steadily increasing, the income under feudal
was inadequate as a source of revenue, and the
movable property as contrasted with landed prop-
ncreasing with the development of trading and
lasses. In view of the stout resistance of the barons
exactions, it appeared inevitable that the king, in
ch the various sources of revenue within his realm

second, the representation in that assembly of all classes of the people regularly summoned; third, the reality of the representation of the whole people, secured either by its presence in the council or by the free election of the persons who are to represent it or any portion of it; and fourth, the assembly so summoned and elected must possess definite powers of taxation, legislation, and general political deliberation. We will now trace very briefly the origin, growth, and combination of these.

### § 2. *The Early National Assembly*

The *commune concilium* had existed from the earliest times, first, as the witenagemot, and afterwards as the court of the king's vassals, or, in a manner, as combining the characters of both. It had in neither stage been representative, in the modern meaning of the word. The witenagemot acted for the nation, but was not delegated or elected by it; the great council of the Norman kings included in theory all tenants-in-chief of the crown, but had no special provision for these to represent their under-tenants, or for the securing of the rights of any not personally present. The witenagemot possessed and exercised all the powers of a free council; the Norman court or parliament claiming the character of a witenagemot, if it possessed these rights in theory, did not exercise them. At no period, however, of our early history was the assembling of the national council dispensed with.

### § 3. *The Principle of Representation*

The representation of all classes of the people is necessary for the complete organization of a national council, and that complete organization is legally constituted by summons to parliament. In this three principles are involved: the idea of representation, the idea of exhaustive representation, and the definite summons.

The idea of representation was familiar to the English in the minor courts, the hundred-moot and the shire-moot. The reeve and four men represented the township in these assemblies; the twelve assessors of the sheriff represented the judicial opinion, sometimes the collective legal knowledge of the shire. At a later period the inquest by sworn recognitors, in civil suits, in the presentment of criminals, and in the assessment of real and personal property, represented the country, that is, the shire or hundred or borough, for whose business they were sworn to answer.





### § 4. *Classes of Persons Represented*

The political constituents of the nation (exclusive of the king) —the three estates of the realm—are the clergy, the baronage, and the commons. A perfect national council must include all these: the baronage by personal attendance, the clergy and people by representation. The bishops, although their right to appear personally in the *commune concilium* is older than the introduction of the feudal principle on which the theory of baronage is based, have, by the definition of lawyers, been made to sink their character of witan in that of barons, amongst whom they may for our present purpose be included. The representation of the estates then implies the union in parliament of (1) the baronage, lay and clerical; (2) the lower clergy; and (3) the commons.

(1) The baronage, in its verbal meaning, includes all *barones*, that is, all homagers holding directly of the crown, but by successive changes, the progress of which is far from easy to fix chronologically, it has been limited, first, to all who possess a united *corpus*, or collection of knights' fees held under one title; secondly, to those who, possessing such a barony, are summoned by special writ; thirdly, to those who, whether entitled by such tenure or not, have received a special summons; and finally, to those who have become by creation or prescription entitled hereditarily to receive such a summons. The variations of dignity among the persons so summoned, represented by the names duke, marquis, earl, and viscount are of no constitutional significance. The baronial title of the bishops and mitred abbots originated in the second and third of the principles thus stated.

(2) The inferior clergy had immemorially their diocesan assemblies and their share in the provincial councils of the Church — a share which would be as difficult to define as is that of the plebs or populus in the *commune concilium regni*, but which does not much affect constitutional history until the period of Magna Carta. At the beginning of the thirteenth century the doctrine was gaining ground that the taxpayer should have a voice in the bestowal of the tax; the legal position of the beneficed clergy had been long definitely settled; and the changes in the character of taxation took from them the immunities which they had earlier possessed and still persistently claimed.

The aids which John condescended to ask of the inferior clergy were not granted by assemblies, but collected by separate nego-

tiation through the archdeacons, in the same way that the sheriff or the itinerant judges negotiated the aids of the towns and counties. In a council held by John in 1207 the regular clergy were represented by abbots; in another, in 1213, the cathedral clergy were represented by the deans; the rest of the clergy not at all. In both of these cases there are analogies with the dealings of the lay estates that might be traced at length. Passing over the anomalous councils of the next forty years, we find in 1254 a writ directing the archbishops and bishops to assemble all the clergy for the purpose of granting an aid; in 1255 the proctors of the clergy appeared in parliament at Westminster.

In 1283 Edward I summoned them by their proctors to great councils at Northampton and York; in 1294 they were summoned by their proctors to the parliament at Westminster; and in 1295 by the clause *præmunientes* in the writ summoning the bishops to parliament, the clergy were summoned to appear there, the deans and priors of the cathedrals and the archdeacons in person, the chapters by one proctor, and the clergy of each diocese by two, having full and sufficient power from the chapters and the clergy. This clause has been inserted, with a few exceptions, ever since, the constant usage dating, as stated by Hody, from the 28th of Edward III; but it has not been acted upon since the fourteenth century. We may trace in this the defining hand of Edward I, who doubtless intended by this means to introduce a complete and symmetrical system of representation into the lower department of his parliament. It was defeated by the clergy themselves, who preferred to vote their aids in convocation, their own special assembly or provincial council which, also, during the reign of Edward I, was a few years earlier reconstituted on the representative basis, in two divisions, one meeting at London and the other at York. The convocations, which were summoned by the archbishops and were divided according to the provinces, the measure of representation differing in the two, must be carefully distinguished from the parliamentary representation of the clergy, which was summoned by the king's writ directed to the archbishops and bishops, and was intended to be an estate of parliament.

(3) The commons must be regarded as composed, for political purposes, of the population of the shires, the ancient divisions on the administration of which the early political system of the country was based, and that of the towns or boroughs, which had been erected by successive grants of privileges into the status of substantive political bodies.

### § 5. *Origin of County Representation*

Enough has been said already of the origin and growth of representation in the former. It would not appear that there was any provision for the incorporation of the representatives of the shires in the *commune concilium* before the reign of John; and when the principle is adopted, it is questionable whether they owed their privilege to their constitutional position as the most prominent portion of an estate of the realm, or to their being the most ready machinery for the representation of the minor barons, the lower tenants of the crown. The 14th Article of Magna Carta promises that these shall be summoned by a general writ and through the sheriffs. The only constitutional mode of the sheriff's action was in the county court. Hence the minor barons, to be consulted at all, must be consulted in the county court. But that court was already constituted of all the freeholders, and the machinery of representation and election was already familiar to them. It would then appear certain that from the time at which the representatives of the shires were first summoned, they were held to represent the whole body of freeholders; and although there was at a later period a question whether the wages of the knights of the shire should be paid by the whole body of freeholders, or only by the tenants in knight service, it was never peremptorily determined; nor has there ever been a doubt but that the representation was that of the whole shire, and the election made, theoretically at least, in *pleno comitatu*, down to the Act of Henry VI, which restricted the electoral franchise to the forty shilling freeholders.

The first occasion on which the representatives of the shires were summoned to consult with the king and other estates is in the 15th of John, 1213, when the king by writ addressed to the sheriffs, directs that four discreet men of each shire shall be sent to him, *ad loquendum nobiscum de negotiis regni nostri.* These "four discreet men" must be regarded in connection with the custom of electing four knights in the county court to nominate the recognitors and grand jury; and the 14th Clause of the Charter, directing the summons of the minor barons by the sheriffs must be interpreted or illustrated by this writ. The next case in which it is clear that representatives of the shire were called to parliament is that of 1254, when two knights represent each county. In 1261 the barons, and after them Henry III in opposition, sum-

moned three knights from each shire. In 1264 Simon de Montfort summoned four; to the famous Assembly of 1265 he summoned two. In the great Assembly which swore allegiance to Edward I in 1273, four knights, and in the second Parliament of 1275 two, represented each shire. The mention of the commonalty in the early writs and statutes of Edward I seems to show that the practice was pursued with some approach to continuity, and certainly in some cases, as in the Councils of 1283 and in the Parliament of Shrewsbury, it was fully carried out. But the character of these assemblies is a matter of debate, and it cannot certainly be said that the knights of the shire were formally summoned to proper parliaments until the year 1290, or that they were regarded as a necessary ingredient of parliament until 1294. Their regular and continuous summons dates from 1295.

### § 6. *Position of the Boroughs in the English System*

The boroughs of England, like the counties, stood in a double relation to the king. In very many cases they were in his demesne, and had received their privileges as a gift of purchase from him, and in all cases they were a very important element in taxation. Either then on the feudal principle as demesne lands, or on the political ground as an influential part of the nation, they stood on a basis, not indeed so old as that of the county organization, but in all other respects scarcely less important. Their history tells its own tale: beginning as demesne of a king or of a bishop, abbot, or secular lord, they had by the time of the Conquest obtained recognition, as individualities apart from the body of the counties to which locally they belonged. They were, indeed, generally subject to the jurisdiction of the king as his demesne, and not included in the *corpus comitatus*. But the towns so situated at the time of the Domesday survey were few, and even for a century after they increased in number and importance slowly. Their internal condition was but that of any manor in the country; the reeve and his companions, the leet jury as it was afterwards called, being the magistracy, and the constitution being further strengthened only by the voluntary association of the local guild, whose members would naturally furnish the counsellors of the leet. The towns so administered were liable to be called on for talliage at the will of the lord, and the townsmen were in every respect, except wealth and closeness of organization, in the same condition as the villeins of an ordinary demesne.





The next step taken in the direction of emancipation was the purchase, by the tenants, of the *firma burgi*, that is, the ferm of the dues payable to the lord or the king, within the borough; instead of being collected severally by the reeve or the sheriff, these were compounded for by a fixed sum, which was paid by the burghers and reapportioned amongst themselves. The grant of the ferm was accompanied by or implied an act of emancipation from villein services; and the recipients of the grant were the burghers, as members of the leet or of the guild, or in both capacities. The burgage rent was apportioned among the houses or tenements of the burghers, who thus became tenants in burgage and on equality with tenants in free and common socage. The possessors of these burgages were, until a further organization was provided, the political constituents of the borough.

The privileges of the boroughs had not got much beyond this at the death of Henry I; the burghers of Beverly, who were chartered during his reign by their lord the Archbishop of York with the same privileges as those enjoyed by the citizens of York, are empowered by their charter to have their *hans-hus*, and there to make their by-laws, and to enjoy certain immunities from tolls within the shire. It is impossible to argue from the privileges of the city of London to those of the provincial towns; and in the scarcity and uncertainty of the early charters there are many serious hindrances to any generalization. Amongst the rights claimed by London at this date are those of electing its own sheriff, of exemption from external judicature, freedom from several specified imposts, and protection for corporate estates. London, however, can never have been regarded as a town in demesne; and its privileges, vested in the powerful burghers of the free city, served as a model for those which were gradually emancipated.

Under Henry II we trace an increase in the privileges recognized or granted by charter, the king confirms the liberties enjoyed during the reigns of Edward, William, and Henry I; by special privilege the villein who has stayed a year and a day in a chartered town unclaimed is freed in perpetuity, or the towns are exempted from the jurisdiction of the sheriff or king's officer. It is only by fine that they obtain now and then the right to elect their own officers. This and other rights scarcely less important are occasionally granted in the charters of Richard, and commonly in those of John, which seem to recognize in the borough a modified corporate character but little short of the later idea of incorporation. The charter of John to Dunwich is especially full, be-

stowing the character of a free borough, enumerating the rights, such as sac and soc, in which the burghers enter into the possession of the status before belonging to the lord of the franchise; the ferm of their town; immunity from all jurisdiction except that of the king's justices; the right to appear before the justices, if summoned, by representation of twelve lawful men, and of being assessed in case of an amercement by a mixed jury, half named out of their own body. The privileges of the towns advanced very little farther than this during the thirteenth century; but at the beginning of it the principle of representation and election was thus applied to them.

### § 7. *Origin of Borough Representation in Parliament*

No idea of summoning the towns to appear before the king by their representatives can be traced higher than the reign of John. Before and after this the richer tenants in burgage may have occasionally attended the Royal Councils with the other freeholders. They would, however, have no representative character whatever; nor is there any trace of their magistrates, to whom such a character would belong, being summoned to Parliament, as they were to the States General in France by Philip the Fair. The first notice of a united representation occurs in 1213, when John summoned the representatives of the demesne lands of the crown to estimate the compensation to be paid to the plundered bishops. By a writ to the sheriffs, they are directed to send to S. Albans four men and the reeve from every township in demesne. In this may be distinctly traced a connection with the county court representation of earlier and later times. The assembly so constituted met, and is dignified by Matthew Paris with the title of a council, the archbishop, bishops, and magnates being present at it. It is indeed the assembly to which, through the justiciar, John proposed the restoration of the laws of Henry I.

From this date, however, to the Parliament of Simon de Montfort, we find no further traces; nor can this case be taken as more than pointing the way to the later system. The taxation was still a matter of arrangement with the officers of the Exchequer, and for no other purpose were the towns likely to be consulted. The summons of Simon de Montfort was directed to the citizens and burghers of the several cities and boroughs, each of which was to send two representatives. After the year 1265 there is again a long blank; for although in several places the burghers are spoken





of as joining in grants of money at the king's request, it cannot be shown that their representatives were convoked for the purpose before the year 1295. The National Councils of 1273 and 1283, and the Parliament of Shrewsbury, contained representatives of the towns, but they are not allowed by constitutional lawyers the full name of Parliaments; nor is it certain whether the representatives attended as representing an estate or a part of one, or merely for the purpose of informing the king and magnates. In 1294 the towns were asked for their contributions by distinct commissions; in 1295 they were summoned regularly to Parliament; and although the series of writs is not so complete in the case of the towns as in that of the counties, their right was then recognized, their presence was seen to be indispensable, and the representation has been continuous, or nearly continuous, ever since.

The great difference between the representation of the counties and that of the boroughs is this, that it was in the power of the crown or its advisers to increase or diminish the number of boroughs represented — a power based on the doctrine that their privilege was the gift of the crown, and their status historically that of royal demesne. But their association with the knights of the shire, whose numbers could not be altered, and whose possession of their right sprang from the more ancient part of the constitution, prevented the third estate from falling into the condition into which the corresponding body fell in Spain, where the custom of summoning towns was adopted earlier; and in France, where it was possibly imitated by Philip the Fair from the practice of Edward I.

### § 8. *Methods of Summoning Parliament*

The status of the Parliament was constituted by the writs of summons, addressed to the barons individually, and to the sheriffs for the representation of the third estate. In the latter case both towns and counties chose their representatives in the shire-moot. Where the particular form of writ was not observed — and both for military levies of the vassals and for great councils a distinct form was in use — the Assembly, although it might contain every element of a Parliament, was not regarded as one. The obscurity of our knowledge on this point, caused by the loss of the ancient writs, occasions the difficulty that exists about the Assemblies of the reign of Henry III and of the early years of Edward I, during which many councils were held which contained certainly knights

of the shire, and possibly deputies from the towns, but which are called Great Councils rather than Parliaments, for this technical reason, — either they contained other ingredients besides the regular ones of Parliament, or they did not contain all the ingredients of Parliament; or the towns were summoned otherwise than through the sheriffs; or the number of representatives varied; or the selection of the boroughs was irregular; or the purpose specified in the writ was other than parliamentary.

Such councils were occasionally held in the succeeding reigns, and exercised many of the powers of Parliament; but taxes imposed by them, and laws enacted by their authority, were regarded as of questionable validity, and sometimes had to be formally reënacted. These councils were, however, a part of the process by which the institution of Parliaments ripened. The regular tribunal of later date, to which the same name of Great Council is given, contained the lords spiritual and temporal, the judges of the courts, and the other members of the king's ordinary council. For judicial purposes it exercised a right which Parliament as such had not, and which has descended from it to the House of Lords only. It also advised the crown in all matters of government, although any attempt at legislation was watched very jealously by the commons.

### § 9. *Combination of Election and Representation*

The combination of the principle of election with that of representation has been illustrated by what precedes. The idea of election was very ancient in the nation, and had been theoretically maintained in both the highest and lowest regions of the polity: the kings and prelates were supposed to be elected; the magistrates of the towns, the judicial officers of the counties and forests, were really so from the beginning of the thirteenth century, if not before. In this, as in every other constitutional point, the freedom claimed and often secured by the clergy served to maintain the recollection or idea of a right. In the reign of Edward I the lawyers represented it as an ancient Teutonic right that the ealdorman, the heretoga, and the sheriff were elected officers. The election of sheriff was claimed for the counties during the parliamentary struggle which produced the Provisions of Oxford, and was secured to the freeholders by the *articuli super cartas* in 1300; but the privilege was withdrawn in the next reign. The two principles of election and representation have never been





divided in England since the reign of Edward I, although the variety of franchises and disputes on the right of voting for members of Parliament are for many centuries bewildering in the extreme. The towns, however close the elective franchise, have never been, as in France, represented by their magistrates as such.

### § 10. *Powers of Parliament*

Of the four normal powers of a National Assembly, the judicial has never been exercised by the Parliament as a parliament. The House of Commons is not, either by itself or in conjunction with the House of Lords, a court of justice; the House of Lords has inherited its jurisdiction from the Great Council. Another power, the political, or right of general deliberation on all national matters, is too vague in its extent to be capable of being chronologically defined; nor was it really vindicated by the Parliament until a much later period than that on which we are now employed. The two most important remain, the legislative and the taxative, the tracing of whose history must complete our present survey.

### § 11. *Development of the Legislative Power of Parliament*

The ancient theory that the laws were made by the king and Witan coördinately, if it be an ancient theory, has within historic times been modified by the doctrine that the king enacted the laws with the counsel and consent of the Witan. This is the most ancient form existing in enactments, and is common to the early laws of all the Teutonic races; it has, of course, always been still more modified in usage by the varying power of the king and his counsellors, and by the share that each was strong enough to vindicate in the process. Until the reign of John the varieties of practice may be traced chiefly in the form taken by the law on its enactment. The ancient laws are either drawn up as codes, like Alfred's, or as amendments of customs: often we have only the bare abstract of them, the substance that was orally transmitted from one generation of Witan to another; where we have them in integrity the counsel and consent of the Witan are specified. The laws of the Norman kings are put in the form of charters; the king in his sovereign capacity grants and confirms liberties and free customs to his people, but with the counsel and consent of his barons and faithful.

Henry II issued most of his enactments as edicts or assizes.

with a full rehearsal of the counsel and consent of his archbishops, bishops, abbots, priors, earls, barons, knights, and freeholders. The compact of John with the barons has the form of a charter; but, as already stated, is really a treaty based on articles proposed to him, and containing additional articles to secure execution. From the time of John the forms vary, and the reign of Henry III contains statutes of every shape, — the charter, the assize, the articles proposed and accepted, and the special form of provisions, which are analogous to the canons of ecclesiastical councils. From the reign of Edward I the forms are those of statutes and ordinances, differing in some ascertained respects, the former formally accepted in the Parliaments as laws of perpetual obligation, and enrolled; the latter proceeding from the king and his council rather than from the king and Parliament, being more temporary in character, and not enrolled among the statutes. All alike express the counsel and consent with which the king fortifies his own enacting power; but several of the early statutes of Edward are worded as if that enacting power resided in the king and his ordinary council; and it is not clear whether this assumption is based on the doctrine of the scientific jurists who were addicted to the civil law, or on imitation of the practice of the French kings just then made illustrious by the Establishments of St. Lewis.

The actual force of the expression "counsel and consent," which is preserved during so long a period and under such various developments of the royal power, can only be estimated approximately, according to the occasion or the needs or the character of the sovereign who acknowledges it. It stands, for at least a century after the Conquest, as the record of a right rather than the expression of a fact. Under Henry II and his descendants, by whom a large share of power was actually vested in the ministers and judges, the facility of consultation was much increased, but it remains an obscure point, whether consent could be withheld as well as bestowed, and whether it was not generally taken for granted.

From the reign of Henry III it was probably a reality, and from that of Edward I downwards the form has a typical force, and the variations later introduced into it have a great deal of meaning. After the permanent incorporation of the commons, from 1318 downwards, the form is: by the assent of the prelates, earls, barons, and the commonalty of the realm. From the first year of Edward III the share of the commons is frequently expressed as petition, by the assent of the prelates, earls, and barons, and at the request





of the commons; under Richard II the assent is occasionally expressed as simply that of the lords and commons. Henry IV enacts with the advice and assent of the lords at the request of the commons. In the 23rd of Henry VI the addition by authority of Parliament first occurs; and from the 1st of Henry VII the mention of petition is dropped, and the regular form becomes the advice and assent, or consent, of the lords spiritual and temporal and commons in Parliament assembled, and by authority of the same. These forms, certainly, are not uniformly observed; but the origin of the changes may be exactly traced and will be found to synchronize with the later changes in the balance of power between the several estates and the sovereign.

The further question, Were the estates on an equality in respect of legislation? may be thus briefly answered. The claim of the clergy and commons to a voice was not admitted so early in legislation as in the case of taxation: once admitted, the power of the commons very quickly eliminated all direct interference on the part of the clergy. Down to the end of the reign of Edward I it can hardly be said that the right of counsel was extended to the commons at all; it is in the next reign that their power of initiation by way of petition is first recognized. As late as the 18th of Edward I, the statute *quia emptores* was passed by the king and barons, before the day for which the commons was summoned. As to the clergy, there is no doubt either that they exercised the right of petition or that the king occasionally made a statute at their request, with the consent of the lords, and without reference to the commons; but acts so sanctioned were not regarded by the lawyers as of full authority, and are relegated, perhaps rightly, to the class of ordinances. Possibly the royal theory was that the right of petition belonged to both clergy and commons, whilst the counsel and consent of the lords only was indispensable. It was not until the 15th of Edward II that the voice of Parliament, when revoking the acts of the ordainers, distinctly enunciated the principle that all matters to be established for the estate of the king and people "shall be treated, accorded, and established in Parliaments by the king and by the assent of the prelates, earls, barons, and commonalty of the realm, according as it hath been hitherto accustomed."

The growth of the right of the commons may be traced in the forms of the writs: in those of John, the knights of the shire are summoned simply *ad loquendum;* those of Simon de Montfort describe them as *tractaturi et consilium impensuri; ad tractandum*

as well as *ad consulendum et consentiendum* being the form of summons usual in the case of a Great Council. Edward I, in 1283, summons the representatives of the towns *ad audiendum et faciendum;* in 1294 he summons the knights of the shire *ad consulendum et consentiendum, pro se et communitate illa, iis quæ comites, barones, et proceres prædicti ordinaverint,* with which agrees the fact that, in 1290, they were not assembled until the legislative part of the work of the Parliament had been transacted. From the year 1295, however, the form is *ad faciendum;* under Edward II it becomes *ad consentiendum et faciendum,* to assent and enact. From this time, then, the commons were admitted to a share of the character of the sapientes, which in this respect the bishops and barons had engrossed since the Conquest, and the king was enabled to state with truth, as Edward I did to the pope, that the custom of England was, that in business affecting the state of the kingdom the counsel of all whom the matter touched should be required. The corresponding variations in the *præmunientes* clause summoning the clergy are: in 1295, *ad tractandum, ordinandum, et faciendum;* in 1299, *ad faciendum et consentiendum;* from 1381, only *ad consentiendum,* a function adequately discharged by absence.

### § 12. *Connection between Taxation and Representation*

The share of the commons in taxation takes precedence of their share in legislation. The power of voting money was more necessary than that of giving counsel. Of this power, as it existed up to the date of Magna Carta, enough has been said. The witenagemot and its successor, the royal council of barons, could impose the old national taxes; the ordinary feudal exactions were matters of common law and custom, and the amount of them was limited by usage. But the extraordinary aids which Henry II and his sons substituted for the Danegeld, and the taxes on the demesne lands of the crown, were arbitrary in amount and incidence; the former clearly requiring, and the latter, on all moral grounds, not less demanding, an act of consent on the part of the payers. This right was early recognized; even John, as we have seen, asked his barons sometimes for grants, and treated with the demesne lands and towns through the Exchequer, with the clergy through the bishops and archdeacons.

Magna Carta enunciates the principle that the payers shall be called to the common council to vote the aids which had been





previously negotiated separately; but the clause was never confirmed by Henry III, nor was it applicable to the talliage of demesne. It is as the towns begin to increase, and at the same time taxation ceases to be based solely on land and begins to affect personal as well as real property, that the difficulties of the king and the hardships of the estates liable to talliage become important. The steps by which the king was compelled to give up the right of taking money without a parliamentary grant, are the same as those which led to the confirmation of the charters by Edward I. It was virtually surrendered in the clause then conceded in addition to the charter, which is commonly known under the form of the articles, *de tallagio non concedendo.* And this completed the taxative powers of Parliament. The further steps of development, the determination of the different proportions in which the various branches of the three estates voted their supplies, and the final engrossing of the taxing power by the House of Commons, the struggles by which the grants were made to depend on the redress of grievances, and the determination of the disposal of supplies assumed by the Parliament, belong to later history.

We have thus brought our sketch of constitutional history to the point of time at which the nation may be regarded as reaching its full stature. It has not yet learned its strength, nor accustomed itself to economize its power. To trace the process by which it learned the full strength of its organism, — by which it learned to use its powers and forces with discrimination and effect; to act easily, effectually, and economically; or, to use another metaphor, to trace the gradual wear of the various parts of the machinery, until all roughness was smoothed, and all that was superfluous, entangling, and confusing was got rid of, and the balance of forces adjusted, and action made manageable and intelligible, and the power of adaptation to change of circumstances fully realized, — is the story of later politics, of a process that is still going on, and must go on as the age advances, and men are educated into wider views of government, national unity, and political responsibility. We stop, however, with Edward I, because the machinery is now completed, the people are at full growth. The system is raw and untrained and awkward, but it is complete. The attaining of this point is to be attributed to the defining genius, the political wisdom, and the honesty of Edward I, building on the immemorial foundation of national custom; fitting together all that Henry I had planned, Henry II had organized, and the heroes of the thirteenth century had inspired with fresh life and energy.

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# CHAPTER VII

## GROWTH OF PARLIAMENTARY POWERS

It was a long time after the Model Parliament of Edward I before Parliament took on a definite form of two houses, each with its settled customs and rules of procedure. A general account of this further development will be found in almost any good text-book, especially in Mr. Medley's excellent manual, ***English Constitutional History***, chapter iv. While tracing the evolution of the forms of Parliament, the student must also observe an equally important process, that is, the development of the powers of the respective houses, not in an abstract fashion, but always in relation to concrete contemporary events. Originating as a feudal and taxing body, Parliament, in the struggle with the kings, attempted to control not only the amount and form of taxes, but also their expenditure. Furthermore, Parliament contended for the right to make new laws and restrain the king from arbitrary action in this sphere also. The methods by which these various claims to power were made effective are elaborately discussed by Dr. Stubbs in the seventeenth chapter of his *Constitutional History*, from which only a few passages can be given here.

### § 1. *Parliamentary Control of Royal Ministers*[1]

The idea of controlling expenditure and securing the redress of all administrative abuses by maintaining a hold upon the king's ministers, and even upon the king himself, appears in our history, as soon as the nation begins to assert its constitutional rights, in the executory clauses of the Great Charter. Three methods of attaining the end proposed recommended themselves at different

[1] Stubbs, *Constitutional History of England*, Vol. II, chap. xvii. By permission of the Delegates of the Clarendon Press, Oxford.

times: these are analogous, in the case of the ministers, to the different methods by which, under various systems, the nation has attempted to restrain the exercise of royal power; the rule of election, the tie of the coronation oath, and the threats of deposition; and they are liable to the same abuses.

The scheme of limiting the irresponsible power of the king by the election of the great officers of state in Parliament has already been referred to as one of the results of the long minority of Henry III. It was in close analogy with the practice of election to bishoprics and abbacies, and to the theory of royal election itself. When, in 1244 and several succeeding years, the barons claimed the right of choosing the justiciar, chancellor, and treasurer, they probably intended that the most capable man should be chosen, and that his appointment should be, if not for life, at least revocable only by the consent of the nation in Parliament. The king saw more clearly perhaps than the barons that his power thus limited would be a burden rather than a dignity, and that no king worthy of the name could consent to be deprived of all freedom of action. Henry III pertinaciously resisted the proposal, and it was never even made to Edward I, although in one instance he was requested to dismiss an unpopular treasurer. Revived under Edward II, in the thirteenth and following articles of the Ordinances, and exercised by the ordainers when they were in power, it was defeated or dropped under Edward III; in 1341 the commons demanded that a fresh nomination of ministers should be made in every Parliament; Edward agreed, but repudiated the concession.

It was naturally enough again brought forward in the minority of Richard II. The commons petitioned in his first Parliament that the chancellor, treasurer, chief justices and chief baron, the steward and treasurer of the household, the chamberlain, privy seal, and wardens of the forests on each side of the Trent, might be appointed in Parliament; and the petition was granted and embodied in an ordinance for the period of the king's minority. In 1380 the commons again urged that the five principal ministers, the chancellor, treasurer, privy seal, chamberlain, and steward of the household should be elected in Parliament, and that the five chosen in the present Parliament might not be removed before the next session; the king replied by reference to the ordinance made in 1377. In 1381 they prayed that the king would appoint as chancellor the most efficient person he could find, whether spiritual or temporal; in 1383 that he would employ sage, honest, and discreet counsellors; and in 1385 he had to decline summarily to





name the officers whom he intended to employ "for the comfor of the commons."

But it may be questioned whether under the most favorabl circumstances the right claimed was really exercised; the common seem generally to have been satisfied when the king announce his nomination in Parliament, and to have approved it withou question. The appointments made by Edward II in oppositio to the ordainers, when he removed their nominees and appointe his own, were acts of declared hostility, and equivalent to a dec laration of independence. The ultimate failure of a pretension maintained on every opportunity for a century and a half, woul seem to prove that, however in theory it may have been compatibl with the idea of a limited monarchy, it was found practically im possible to maintain it; the personal influence of the king woul overbear the authority of any ordinary minister, and the ministe who could overawe the king would be too dangerous for the peac of the realm. The privy council records of Richard II sho that even with the ministers of his own selection the king did no always get his own way.

### § 2. *Control through the Oath of Office*

A second expedient was tried in the oath of office, an attemp to bind the conscience of the minister which belongs especiall to the age of clerical officials. The forms of oath prescribed b the Provisions of Oxford illustrate this method, but there is n reason to suppose that it was then first adopted. The oath of th sheriffs and of the King's counsellors is probably much mor ancient, and the king's own oath much older still. The syste is open to the obvious objection which lies against all such obliga tions, that they are not requisite to bind a good minister or stron enough to bind a bad one; but they had a certain directive force and in ages in which the reception of money-gifts, whether a bribes or thank-offerings, was common and little opposed to th moral sense of the time, it was an advantage that the public ser vants should know that they could not without breach of faith use their official position for the purpose of avarice or self aggrandizement.

But when we find the best of our kings believing themselve relieved from the obligation of an oath by absolution, we ca scarcely think that such a bond was likely to secure good faith in a minister trained in ministerial habits, ill-paid for his services, an

anxious to make his position a stepping-stone to higher and safer preferment. It is seldom that the oath of the minister appears as an effective pledge; the lay ministers of Edward III, in 1341, allowed their master to make use of their sworn obligation to invalidate the legislation of Parliament and to enable him to excuse his own repudiation of his word. Generally the oath only appears as an item among the charges against a fallen or falling minister, against whom perjury seems a convenient allegation.

### § 3. *Punishment and Admonition of Ministers; Origin in Royal Practice*

The third method was rather an expedient for punishment and warning than a scheme for enforcing ministerial good behavior; it was the calling of the public servant to account for his conduct whilst in office. In this point the Parliament reaped the benefit of the experience of the kings, and did it easily, for, as the whole of the administrative system of the government sprang out of the economic action of the Norman court, a strict routine of account and acquittance had been immemorially maintained. The annual audits of the Exchequer had produced the utmost minuteness in public accounts, such as have been quoted as illustrating the financial condition of England under Edward I. Minute bookkeeping, however, does not secure official honesty, as the Norman kings were well aware; the sale of the great offices of state, common under Henry I and tolerated even under Henry II, shows that the kings were determined that their ministers should have a considerable stake in their own good conduct; a chancellor who had paid £10,000 for the seals was not likely to forfeit them for the sake of a petty malversation which many rivals would be ready to detect.

On the other hand the kings possessed, in the custom of mulcting a discharged official, — a custom which was not peculiar to the Oriental monarchies, — an expedient which could be applied to more than one purpose. Henry II had used the accounts of the chancery as one of the means by which he revenged himself on Becket. Richard I had compelled his father's servants to repurchase their offices, and the greatest of them, Ranulph Glanville, he had forced to ransom himself with an enormous fine. The minister who had worn out the king's patience, or had restrained his arbitrary will, could be treated in the same way. Hubert de Burgh had been a good servant to Henry III, but the king could not resist the temptation to plunder him. Edward I again seems





to have considered that the judges whom he displaced in 129( were rehabilitated by the payment of a fine — a fact which show: that the line was not very sharply drawn between the lawfu and unlawful profits of office. Edward II revenged himself or Walter Langton, Edward III vented his irritation on the Stratfords John of Gaunt attacked William of Wykeham with much the same weapons, and in each case the minister assailed neither in· curred deep disgrace nor precluded himself from a return to favor.

Such examples taught the nation the first lessons of the doctrine of ministerial responsibility. Great as were the offences of Ed· ward II, Stapledon the treasurer and Baldock the chancellor were the more immediate and direct objects of national indig· nation; they were scarcely less hated than the Dispensers, and shared their fate. The Kentish rioters or revolutionists of 1381 avenged their wrongs on the chancellor and treasurer, even whilst they administered to the Londoners generally the oath of fealty to King Richard and the commons.

### § 4. *Instances of Impeachment*

But it is in the transactions of the Good Parliament that this principle first takes its constitutional form; kings and barons had used it as a cloak for their vindictive or aggressive hostility; the com· mons first applied it to the remedy of public evils. The impeach· ment of Lord Latimer, Lord Neville, Richard Lyons, Alice Perrers, and the rest of the dishonest courtiers of Edward III, is thus a most significant historical landmark. The cases of Latimer and Neville are the most important, for they, as chamberlain and steward, filled two of the chief offices of the household; but the association of the other agents and courtiers in their condemnation shows that the commons were already prepared to apply the newly found weapon in a still more trenchant way, not merely to secure official honesty, but to remedy all public abuses even when and where they touched the person of the king, and moreover to secure that public servants once found guilty of dishonest conduct should not be employed again. As the grand jury of the nation, the sworn recognitors of national rights and grievances, they thus entered on the most painful but not the least needful of their functions.

The impeachment of Michael de la Pole in 1386 and of Sir Simon Burley and his companions in 1388 was the work of the commons. It is to be distinguished carefully from the proceedings

of the lords appellant, which were indefensible on moral or political grounds, for there the guilt of the accused was not proved, and the form of proceeding against them was not sanctioned by either law or equity. But the lesson which it conveyed was full of instruction and warning. The condemnation of Michael de la Pole especially showed that the great officers of state must henceforth regard themselves as responsible to the nation, not to the king only. The condemnation of the favorites proved that no devotion to the person of the king could justify the subject in disobeying the law of the land, or even in disregarding the principles of the constitution as they were now asserting themselves. The cruelty and vindictiveness of these prosecutions must be charged against the lords appellant who prompted the commons to institute them; the commons, however, were taught their own strength even by its misuse. And still more terribly was the lesson impressed upon them when Richard's hour of vengeance came, and they were employed to impeach Archbishop Arundel, ostensibly for his conduct as chancellor and for his participation in the cruelties of which their predecessors in the House of Commons had been the willing instruments, but really that they might in alliance with the king complete the reprisals due for the work in which they had shared with the appellants. The dangerous facility with which the power of impeachment might be wielded seems to have daunted the advocates of national right; the commons as an estate of the realm joyfully acquiesced in the change of dynasty, but, by subsequently protesting that the judgments of Parliament belonged to the king and lords only, they attempted to avoid responsibility for the judicial proceedings taken against the unhappy Richard. . . .

### § 5. *Acquisition of Control through Financial Restraint*

The command of the national purse was the point on which the claims of the nation and the prerogative of the king came most frequently into collision both directly and indirectly; the demand that the king should live of his own, was the most summary and comprehensive of the watchwords by which the constitutional struggle was guided, and the ingenuity of successive kings and ministers was taxed to the utmost in contriving evasions of a rule which recommended itself to the common sense of the nation. But it must not be supposed that either the nation or its leaders, when once awakened, looked with less jealousy on the royal pretensions to legislate, to resist all reforms of administrative

o interfere with the ordinary process of law, or to
y the fiat of the king alone the course of national policy.
oints, perhaps, they had an easier victory, because
struggles turned generally on the question of money;
easier, it was not the less valuable. There is, indeed,
ion, that whilst some of the kings set a higher value
on these powers and on the prerogatives that were
ith them, money was indispensable to all. The ad-
e right of Parliament to legislate, to inquire into abuses,
e in the guidance of national policy was practically
y the money granted to Edward I and Edward III,
dward I had a just theory of national unity, and
exercised little more political foresight than prompted
the acquiescence of the nation in his own schemes.
n well said that although the English people have never
o shed their blood in defence of liberty, most of the
by which at different times they have succeeded in
royal power have been purchased with money, many
stipulated payments, in the offering and accepting of
er party saw anything to be ashamed of. The con-
the charters in 1225 by Henry III contains a straight-
mission of the fact, "for this concession and the gift

which in theory were insoluble. The king had rights as lord of his people, the people had rights as freemen and as estates of the realm which the king personified; the definition of the rights of each, in theory most difficult, became practically easy when it was reduced to a question of bargain and sale.

### § 6. *Grants of Money and Redress of Grievances*

As year by year the royal necessities became greater, more complete provision was made for the declaration of the national demands. The presentation of gravamina was made an invariable preliminary to the discussion of a grant; the redress of grievances was the condition of the grant, and the actual remedy, the execution of the conditions; the fulfilment of the promises, the actual delivery of the purchased right, became the point on which the crisis of constitutional progress turned. Except in cases of great and just irritation, an aid was never refused. When it was made conditional on redress of grievances, the royal promise was almost necessarily accepted as conclusive on the one side, the money was paid, the promise might or might not be kept.

Especially where the grievance was caused by maladministration rather than by the fault of the law, it was impossible to exact the remedy before the price was paid. Even under Henry IV the claim made by the commons, that the petitions should be answered before the subsidy was granted, was refused as contrary to the practice of Parliament. Thus the only security for redress was the power of refusing money when it was next asked, a power which might again be met by insincere promises or by obstinate persistence in misgovernment which would ultimately lead to civil war. The idea of making supply depend upon the actual redress could only be realized under a system of government for which the nations of Europe were not yet prepared — under that system of limited monarchy secured by ministerial responsibility, towards which England at least was feeling her way.

### § 7. *Formal Reception of Petitions by the King*

It was under Edward III that it became a regular form at the opening of Parliament for the chancellor to declare the king's willingness to hear the petitions of his people; all who had grievances were to bring them to the foot of the throne that the king with the advice of his council or of the lords might redress them;





but the machinery for receiving and considering such petitions as came from private individuals or separate communities was perfected, as we have seen, by Edward I. Petitions, however, for the redress of national grievances run back to earlier precedents, and these became, almost immediately on the completion of the parliamentary system in 1295, the most important part of the work of the session. The articles of the barons of 1215, the petition of 1258, the bill of articles presented at Lincoln in 1301, the petitions of 1309 and 1310, were the precedents for the long list of petitions, sometimes offered by the estates together or in pairs, but most frequently by the commons alone.

These petitions fill the greatest part of the Rolls of Parliament; they include all personal and political complaints, they form the basis of the conditions of money grants, and of nearly all administrative and statutory reforms. They are, however, still petitions, prayers for something which the king will, on consultation with the lords or council, give or withhold, and on which his answer is definitive, whether he gives it as the supreme legislator or as the supreme administrator, by reference to the courts of law, or by an ordinance framed to meet the particular case brought before him, or by the making of a new law.

In the first of these cases, the reference of petitions addressed to the king, to the special tribunal to which they should be submitted, need not be further discussed at this point. It has, as has been pointed out in an earlier chapter, a bearing on the history of the judicature, the development of the chancery, and the jurisdiction of the king in council; but, except when the commons take an opportunity of reminding the king of the incompleteness of the arrangements for hearing petitions, or when they suggest improvements in the proceedings, it does not much concern parliamentary history; although the commons make it a part of their business to see that the private petitions are duly considered, the judicial power of the lords is not shared by the commons nor is action upon the petition which requires judicial redress ever made a condition of a money grant.

### § 8. *Petition, Ordinance, and Legislation*

The other two cases are directly and supremely important. Whether the king redresses grievances by ordinance or by statute, he is really acting as a legislator. Although in one case he acts with the advice of his council and in the other by the counsel and

consent of the estates of the realm, the enacting power is his; no advice or consent of Parliament can make a statute without him; even if the law is his superior, and he has sworn to maintain the law which his people shall have chosen, there is no constitutional machinery which compels him to obey the law or observe his oath. More particularly, he is the framer of the law which the advice or consent of the nation has urged or assisted him to make; he turns the petitions of the commons into statutes or satisfies them by ordinance; he interprets the petitions and interprets the statutes formed upon them. By his power, too, of making ordinances in council he claims the power not only to supply the imperfections of the statute law, but to suspend its general operation, to make particular exceptions to its application, to abolish it altogether where it is contrary to his prerogative right. Many of these powers and claims are so intimately bound up with the accepted theory of legislation that they cannot be disentangled without great difficulty, and in some points the struggle necessarily ends in a compromise.

Nearly the whole of the legislation of the fourteenth century is based upon the petitions of Parliament. Some important developments of administrative process grew out of the constructive legislation of Edward I, and were embodied in acts of Parliament as well as in ordinances; but a comparison of the Rolls of Parliament with the Statute Book proves that the great bulk of the new laws were initiated by the estates and chiefly by the commons. Hence the importance of the right of petition and of freedom of speech in the declaration of gravamina, asserted by the invaluable precedents of 1301 and 1309. As the petitions of the commons were urged in connection with the discussion of money grants, it was very difficult to refuse them peremptorily without losing the chance of a grant. They were, also, it may be fairly allowed, stated almost invariably in reasonable and respectful language. Thus, although when it was necessary to refuse them, the refusal is frequently stated very distinctly, in most cases it was advisable either to agree or to pretend to agree, or if not to declare that the matter in question should be duly considered; the form *le roi s'avisera* did not certainly in its original use involve a downright rejection.

### § 9. *Royal Evasion of Petitions*

But the king's consent to the prayer of a petition did not turn it into a statute; it might be forgotten in the hurry of business, or





in the interval between two Parliaments; and as the House of Commons seldom consisted of the same members for two years together, it might thus drop out of sight altogether, or it might purposely be left incomplete. If it were turned into a statute, the statute might contain provisions which were not contained in the petition and which robbed the concession of its true value; or, if it were honestly drawn up, it might contain no provisions for execution, and so remain a dead letter. And when formally drawn, sealed, and enrolled, it was liable to be suspended either generally or in particular cases by the will of the king; possibly, as was the case in 1341, to be revoked altogether. The constant complaints, recorded in the petitions on the Rolls of Parliament, show that resort was had to each of these means of evading the fulfilment of the royal promises even when the grants of money were made conditional upon their performance; and the examination of these evasions is not the least valuable of the many lessons which the history of the prerogative affords.

The first point to be won was the right to insist on clear and formal answers to the petitions, and this was itself a common subject of petition; in several of the Parliaments of Edward III, for instance in 1332, the proceedings of the session were so much hurried that there was no time to discuss the petitions, and the king was requested to summon another Parliament. In 1373 the king urged that the question of supplies should be settled before the petitions were entertained; the commons met the demand with a prayer that they should be heard at once. Occasionally the delay was so suspicious that it had to be directly met with the proposition such as was made in 1383, that the Parliament should not break up until the business of the petitions had been completed. If the answer thus extorted were not satisfactory, means must be taken to make it so; in 1341, when the king had answered the petitions, the lords and commons were advised that "the said answers were not so full and sufficient as the occasion required," and the clergy were likewise informed that they were not "so pleasant as reason demanded." The several estates accordingly asked to have the answers in writing; they were then discussed and modified. If the answers were satisfactory, it was necessary next to make them secure; to this end were addressed the petitions that the answers should be reduced into form and sealed before the Parliament separated; thus in 1344 and 1362 the commons prayed that the petitions might be examined and redress ordered before the end of the Parliament *pur salvetee du poeple;* in 1352 that

all the reasonable petitions of their estate might be granted, confirmed, and sealed before the departure of the Parliament; and in 1379 the same request was made with an additional prayer that a statute might be made to the same effect. The king granted the first point, but said nothing about the statute, and no such statute was enacted. As a rule, however, this was the practice: either the petitions were answered at once, or the private and less important were left to the council, or once or twice perhaps, as in 1388, were deferred to be settled by a committee which remained at work after the Parliament broke up.

### § 10. *Changes in Transmuting Petitions into Statutes*

A more damaging charge than that of delaying the answers to petitions is involved in the complaint that the purport of the answers was changed during the process of transmutation into statute. To avoid this the commons petitioned from time to time that the statutes or ordinances of reform should be read before the house previously to being engrossed or sealed. Thus in 1341 it was made one of the conditions of a grant, that the petition showed by the great men and the commons should be affirmed according as they were granted by the king, by statute, charter, or patent; in 1344 the commons prayed that the petitions might be reviewed and examined by the magnates and other persons assigned; in 1347 the commons prayed that all the petitions presented by their body for the common profit and amendment of mischiefs might be answered and indorsed in Parliament before the commons, that they might know the indorsements and have remedy thereon according to the ordinance of Parliament; in 1348 they asked that the petitions to be introduced in the present session might be heard by a committee of prelates, lords, and judges, in the presence of four or six members of the commons, so that they might be reasonably answered in the present Parliament, and, when they were answered in full, the answers might remain in force without being changed. In 1377 it was necessary to maintain that the petitions themselves should be read before the lords and commons, that they might be debated amicably and in good faith and reason, and so determined; and in the same Parliament the commons demanded that, as the petitions to which Edward III in the last Parliament but one had replied *le roi le veut* ought to be made into statutes, the ordinances framed on these petitions should be read and rehearsed before them with a view to such an





enactment; in 1381 they demanded that the ordinance for the royal household, made in consequence of the petition, might be laid before them that they might know the persons and manner of the said ordinance before it was engrossed and confirmed; in 1385, as in 1341, it was made one of the conditions of a grant, that the points contained in certain special bills should be indorsed in the same manner as they had been granted by the king. Many expedients were adopted to insure this; in 1327 it was proposed that the points conceded by the king should be put in writing, sealed, and delivered to the knights of the shire to be published in their counties; in 1339 the commons prayed the king to show them what security he would give them for the performance of their demands; in 1340 a joint committee of the lords and commons was named to embody in a statute the points of petition which were to be made perpetual, those which were of temporary importance being published as ordinances in letters patent; in 1341 the prayer was made that the petitions of the magnates and of the commons be affirmed accordingly as they had been granted by the king, the perpetual points in statutes, the temporary ones in letters patent or charters; and in 1344 the conditions of the money grant were embodied in letters patent *pur reconforter le poeple*, and so enrolled on the statute roll. This form of record recommended itself to the clergy also; they demanded that their grant and the conditions on which it was made should be recorded in a charter.

We have not, it is true, any clear instances in which unfair manipulation of the petitions was detected and corrected, but the prayers of the petitions here enumerated can scarcely admit of other interpretation; unless some such attempts had been made, such perpetual misgivings would not have arisen. There was no doubt a strong temptation, in case of any promise wrung by compulsion from the king, to insert in the enactment which embodied it a saving clause which would rob it of much of its value. The mischief wrought by these saving clauses was duly appreciated. By a *salvo ordine meo*, or "saving the rights of the church," the great prelates of the twelfth century had tried to escape from the obligations under which royal urgency had placed them, and had perpetuated if they had not originated the struggles between the crown and the clergy. Henry II, himself an adept in diplomatic craft, had been provoked beyond endurance by the use of this weapon in the hands of Becket. Edward I had in vain attempted in 1299 to loosen the bonds in which his own promise had involved him, by an insertion of a proviso of the kind; and

again in 1300 the articles additional to the charters had contained an ample reservation of the rights of his prerogative. The instances, however, given above, which are found scattered through the whole records of the century, show that the weak point of the position of the commons was their attitude of petition.

### § 11. *Substitution of Bill for Petition*

The remedy for this was the adoption of a new form of initiation; the form of bill was substituted for that of petition; the statute was brought forward in the shape which it was intended ultimately to take, and every modification in the original draft passed under the eyes of the promoters. This change took place about the end of the reign of Henry VI. Henry V had been obliged to reply to a petition, in which the commons had insisted that no statutes should be enacted without their consent, that from henceforth nothing should "be enacted to the petitions of his commune that be contrairie of their asking, whereby they should be bound without their assent." This concession involves, it is true, the larger question of the position of the commons in legislation, but it amounts to a confession of the evil for the remedy of which so many prayers had been addressed in vain.

### § 12. *Difficulties in Securing Enforcement of the Statutes*

The frequent disregard of petitions ostensibly granted, but not embodied in statutes, is proved by the constant repetition of the same requests in successive Parliaments, such for instance as the complaints about purveyance and the unconstitutional dealings with the customs, which we have already detailed. The difficulty of securing the execution of those which had become statutes is shown by the constant recurrence of petitions that the laws in general, and particular statutes, may be enforced; even the fundamental statutes of the constitution, the Great Charter, and the charter of the forests are not executed in a way that satisfies the commons, and the prayer is repeated so often as to show that little reliance was placed on the most solemn promises for the proper administration of the most solemn laws. It became a rule during the reign of Edward III for the first petition on the roll to contain a prayer for the observance of the Great Charter, and this may have been to some extent a mere formality.

But the repeated complaints of the inefficiency of particular

statutes are not capable of being so explained. Two examp may suffice: in 1355 the commons pray especially that the statu of the staple, the statute of 1340 on sheriffs, the statute of purve ance, the statute of weights and measures, and the statute Westminster the First may be kept; in each case the king assen The annual appointment of sheriffs which was enacted by statu in 1340 is a constantly recurring subject of petitions of this so It would seem that the king tacitly overruled the operation of t act and prolonged the period of office as and when he please the answer to the petition generally is affirmative, but Edwa III in granting it made a curious reservation which seems equiv lent to a refusal; in case a good sheriff should be found, h commission might be renewed and he himself sworn afres Richard II in 1384 deigned to argue the point with the common it was inexpedient, they were told, that the king should be fo bidden to reappoint a man who had for a year discharged loyal his duty to both king and people. In 1383 he had consented th commissions granting a longer tenure of the sheriffdom should h repealed, saving always to the king his prerogative in this case ar in all others; but now he declared simply that he would do wh should seem best for his own profit and that of the people. H stated his reasons still more fully in 1397.

If it were within the terms of the king's prerogative not mere to allow a statute to become inefficient for want of administrati industry, but actually to override an enactment like that fixi the duration of the sheriff's term of office, it was clearly not fo bidden him to interfere by direct and active measures with th observance of laws which he disliked. It is unnecessary to rema further on the cases of financial illegality in which the plain tern of statutes were transgressed, and which have been already notice These infractions of the constitution cannot be palliated by sho ing that an equal training of prerogative was admitted in oth departments, but the examples that prove the latter show th finance was not the only branch of administration in which th line between legislative and executive machinery was very faint drawn. The case of a king revoking a statute properly passe sealed, and published, as Edward III did in 1341, is happi unique: that most arbitrary proceeding must have been at th time regarded as shameful, and was long remembered as a warnin Edward himself, by procuring the repeal of the obnoxious claus in the Parliament of 1343, acknowledged the illegality of his ow conduct.

The only event which can be compared with this is the summary annulment by John of Gaunt of the measures of the Good Parliament, an act which the commons in the first Parliament of Richard II remarked on in general but unmistakable terms of censure; but the resolutions of the Good Parliament had not taken the form of statute, and so far as they were judicial might be set aside by the exercise of the royal prerogative of mercy. The royal power however of suspending the operation of a statute was not so determinately proscribed. The suspension of the constitutional clauses of the charter of Runneymede, which William Marshall, acting as regent, omitted in the re-issue of the charter of liberties in 1216, shows that under certain circumstances such a power was regarded as necessary; and the assumption by Edward I, in 1297, of the attitude of a dictator, was excused, as it is partly justified, by the exigency of the moment. There are not, however, many instances in which so dangerous a weapon was resorted to. The most significant are those in which the king was acting diplomatically and trying to satisfy at once the pope and the Parliament. Thus in 1307 Edward I, almost as soon as he had passed the statute of Carlisle, which ordered that no money raised by the taxation of ecclesiastical property should be carried beyond the sea, was compelled by the urgent entreaty of the papal envoy to suspend the operation of the law in favor of the pope; in letters patent he announced to his people that he had allowed the papal agents to execute their office, to collect the first-fruits of vacant benefices, and to send them to the pope by way of exchange through the merchants, notwithstanding the prohibitions enacted in Parliament.

The whole history of the statute of provisors is one long story of similar tactics, a compromise between the statute law and the religious obedience which was thought due to the apostolic see; by regarding the transgression of the law simply as an infraction of the royal right of patronage, to be condoned by the royal license, the royal administration virtually conceded all that the popes demanded; the persons promoted by the pope renounced all words prejudicial to the royal authority which occurred in the bulls of appointment, and when the king wished to promote a servant he availed himself of the papal machinery to evade the rights of the cathedral chapters. This compromise was viewed with great dislike by the Parliaments; in 1391 the knights of the shire threw out a proposal to repeal the statute of provisors, which had lately been made more rigorous, although the proposal was supported





by the king and the Duke of Lancaster; but they allowed the king until the next Parliament to overrule the operation of the statute.

### § 13. *Exercise of Dispensing Power*

The more common plan of dispensing by special license with the operation of a statute, in the way of pardons and grants of immunity, was less dangerous to the constitution and less clearly opposed to the theory of the monarchy as accepted in the Middle Ages. Yet against the lavish exercise of this prerogative the commons are found remonstrating from time to time in tones sufficiently peremptory. The power was restricted by the statute of Northampton passed in 1328; but in 1330 and 1347 the king was told that the facilities for obtaining pardons were so great that murders and all sorts of felonies were committed without restraint; the commons in the latter year prayed that no such pardons might be issued without consent of Parliament, and the king, in his answer, undertook that no such charters should thenceforth be issued unless for the honor and profit of himself and of his people. A similar petition was presented in 1351, and instances might be multiplied which would seem to show that this evil was not merely an abuse of the royal attribute of mercy or a defeat of the ordinary processes of justice, but a regularly systematized perversion of prerogative, by the manipulation of which the great people of the realm, whether as maintainers or otherwise, attempted to secure for their retainers and those who could purchase their support, an exemption from the operation of the law.

Even thus viewed, however, it belongs rather to the subject of judicature than to legislation.

These were the direct ways of thwarting the legal enactments to which the king had given an unwilling consent. Indirectly the same end was obtained by means which, if not less distinctly unconstitutional, were less distinctly illegal; that is, by obtaining petitions for the reversal of recent legislation, or by influencing the elections in order to obtain a subservient majority. For both of these devices the short duration of the Parliaments afforded great facilities, and under Edward III and Richard II both were adopted. In 1377, for instance, the awards of the Good Parliament were annulled on the petition of a packed House of Commons. In 1351 the commons prayed that no statute might be changed in consequence of the bill presented by any single person; in 1348 that for no bill delivered in this Parliament in the name of the

commons or of any one else might the answers already given to their petitions be altered. The king in the former case asked an explanation of the request, but in the latter he replied more at length. "Already the king had by the advice of the magnates replied to the petitions of the commons touching the law of the land, that the laws had and used in times past and the process thereon formerly used, could not be changed without making a new statute on the matter, which the king neither then nor since had for certain causes been able to undertake; but as soon as he could undertake it, he would take the great men and the wise men of the council, and would ordain upon these articles and others touching the amendment of the law by their advice and council, in such manner that reason and equity should be done to all his lieges and subjects, and to each one of them." This answer is in full accord with the policy of the king; it is a plausible profession of good intentions, but an evasive answer to the question put to him.



# PART III

## MEDIÆVAL INSTITUTIONS

## CHAPTER I

### THE GROWTH OF AN ENGLISH MANOR

In his *Introduction to English Economic History and Theory*, Professor Ashley has given a clear and concise description of what may be regarded as a typical English manor in the eleventh century. He cautions us, however, not to forget the great divergences from the type to be found in all parts of the country, owing to the immense variety of private arrangements possible. After a careful study of Professor Ashley's chapter, the student will read with peculiar interest the article by Professor Maitland in the *English Historical Review* on "The Growth of an English Manor." In this article we not only get a detailed description of the arrangements of an actual manor, but we also see the changes that went on from generation to generation until serfdom disappeared and the manor entered upon the modern age.

### § 1. *Thirteenth-Century Descriptions of the Manor of Wilburton*[1]

It is not often that one has the good fortune of being able to study a series of mediæval documents at one's own time and in one's own house; but this was given to me by the late Mr. O. C. Pell, lord of the manor of Wilburton, in the county of Cambridge. He committed to my care a splendid line of court and account rolls which, though there were some gaps in it, stretched from Ed-

[1] The *English Historical Review*, Vol. IX, 1894, pp. 417 ff. By permission of Professor Maitland and Messrs. Longmans, Green, & Company, Publishers.

ward I to Henry VII, and now, the consent of his successor, Mr. Albert Pell, having been very kindly given, I am able to lay before the readers of this *Review* a fairly continuous history of a particular English manor during the later Middle Ages; and to me it seems that at the present time we have some need for histories of particular manors, for I am convinced that the time has not yet come when generalities about the English manor and its fortunes will be safe or sound.

The manor of Wilburton, on the edge of the fen, formed part of the ancient estates of the Church of Ely. It is fully described in two "extents," the one made in 1221, the other in 1277. Of these its late lord, who was deeply interested in its history, gave an account in the Proceedings of the Cambridge Antiquarian Society. I shall here speak of them very briefly, for they are but the prelude to those documents which are the theme of this essay.

The two extents begin by describing the demesne land — that is, the land which is in the lord's own hand. In the extent of 1277 he has 216 acres ("by the lesser hundred and the perch of 16½ feet") of arable land, and besides this he has meadow land and a wide expanse of fen. In the next place an account is given of the holdings of the "freeholders" and "hundredors" (*de hundredariis et libere tenentibus*). Of these there are nine, one with 16 acres *de wara*, four with 12 acres *de wara* apiece, two with 6 acres apiece, two with 2½ acres apiece. This arrangement remained constant during the half century which elapsed between the two surveys. These "freeholders" and "hundredors" pay small money rents — the holder of 12 acres pays *2d.* a year; they owe two days' ploughing in Lent and two in winter, for which they receive *1d.* a day; they have to attend the great boon day in autumn. They owe suit to the court of Wilburton and must attend the hundred court, which is in the bishop's hand; hence their designation as *hundredarii*. In the later extent it is expressly stated that they owe a heriot (best beast, or *32d.*), a fine for marrying their daughters (*32d.*), leyrwite and tallage; the gersuma, or fine for marrying a daughter, is mentioned in the earlier extent.

In the court rolls the existence of freeholders can from time to time be detected. They owe suit of court; they are often amerced for not doing it or compound for it with a small sum of money. There are entries also which show that they still owe ploughing service and that some of them are very lax in performing it. Again, descents and alienations are sometimes presented and the

heriot is still due. But on the whole these freeholders seem to have played only a small part in the manor; the names which occur on the court rolls are chiefly those of customary tenants.

In the extents the description of the freehold tenements is followed by the heading *De Operariis et Plenis Terris.* The full land (*plena terra*) consists of 12 acres *de wara.* Of this thorny phrase *de wara* I will here say nothing — its interest lies in a remote past — save this, that as a matter of fact the full land at Wilburton really consisted of 24 acres. Of these full lands there are 15½. The holder of such a tenement pays 19*d.* a year — 12*d.* as wite penny, 6*d.* as sedge silver, 1*d.* as ward penny. From Michaelmas to Hokeday he does two works a week, according to the earlier survey, three according to the later; from Hokeday to Lammas three works a week; from Lammas to Michaelmas five works a week; and besides all this there is a good deal to be done which is not computed as part of the regular week work. On the whole the services, which are more elaborately described in the later than in the earlier of the two surveys, and which perhaps have become heavier during the interval, are of the familiar type.

Then there are 10½ cottage tenements, which even in Henry VII's day still preserved a relic of the Domesday terminology in the name "cossetles." The holder of each such tenement paid 7*d.* a year — 4*d.* for wite pound, 2*d.* for sedge silver, 1*d.* for ward penny — and did two works in every week. The holders of the full lands and the cottiers owe suit to the lord's mill, a fine for marrying their daughters, leyrwite and tallage; they cannot sell colt or ox without the lord's leave.

We already see that a basis has been fixed for the commutation of labor into money. Every "work" in autumn is, as we are told, worth one penny, and out of autumn every work is worth a halfpenny; we also see that one half-cotaria is held by a tenant who "at the will of the lord" pays 2*s.* a year in lieu of his labors; but the profit of the manor is reckoned mainly in "works." In the way of money rents the lord draws but 31*s.* a year from the manor, besides some small dues; on the other hand 3773½ "works" are owed to him, by a "work" being meant the work of one man for one day.

From 1221 down to the very end of the Middle Ages the manor seems to have kept with wonderful conservatism what we may call its external shape — that is to say, at the end of this period the distribution of the customary tenements into "full lands" and

"cossetles," or cottier tenements, was still preserved, though the "full land" was often broken into two "half-lands."

### § 2. *The Sale and Discharge of Works*

At the beginning of the fourteenth century we see that some of the "works" were done in kind, while others were "sold to the homage." Thus there is an account for seventeen weeks in the winter of 1303–1304 during which the temporalities of the See of Ely were in the king's hand; in this the bailiff and reeve, after charging themselves with the rents of assize (*i.e.* the fixed money rents), proceed to account for 10*s.* 10*d.* for "260 winter works sold to the homage at the rate of a halfpenny per work." In a later part of the account we see how this number of "works" is arrived at — the officers account for 1385 works arising from 15½ "full lands" and 10 cottier tenements; they then set against this number the 260 works sold to the homage, 355 works sold to the executors of the late bishop, 57 works excused to the reeve and reaper, 38 works excused to the smith, 19 works due from a half-cotaria which has been let at a fixed rent, 14½ works excused on account of the Christmas holiday, 363½ works the amount of ploughing done, 258 works the amount of harrowing done, 20 works in repairing the ditch around the park at Downham, thus getting out the total of 1385 works.

A little later comes a series of accounts for some consecutive years in Edward II's reign. The basis of these accounts, so far as works come in question, is that 2943 winter and summer works, valued at a halfpenny apiece, are due, and 845 autumn works valued at a penny. These numbers seem subject to some slight fluctuations, due to the occurrence of leap years and other causes. Then the accountants have to show how in one way or another these works have been discharged, and in the first place they must account for "works sold." In the year ending at Michaelmas, 1322, the accountants charged themselves with the value of 1213 winter and summer works and 60½ autumn works which have been "sold," in the next year with the value of 1297½ winter and summer works and 170½ autumn works; in the next year with the value of 1496 winter and summer works and 149 autumn works; in the next year with the value of 1225½ winter and summer works and 218½ autumn works; in the next year with the value of 1023 winter and summer works and 247½ autumn works; in the next year with the value of 1381 winter and summer works and 63½

autumn works. In these and in the later accounts it is not usual to state to whom or in what manner these "works" were "sold"; but there can be little doubt that they were sold to those who were bound to do them — that is to say, when the lord did not want the full number of works he took money instead at the rate of a halfpenny for a winter or summer work and of a penny for an autumn work. The phrase "works sold to the homage," which occurs in the accounts of Edward I's time, may perhaps suggest that the whole body of tenants were jointly liable for the money which thus became due in lieu of works.

It will be seen that the number of "works sold" does not amount to half the number of works due. How were the rest discharged? In the first place some were released; thus the reeve, the reaper, and the smith stood excused; and then again holidays were allowed on festivals; thus the occurrence of the feasts of St. Lawrence and St. Bartholomew serves to discharge a certain number of the autumn works. But very many of the works were actually done; thus in one year 203 "diets" of ploughing between Michaelmas and Hokeday discharge 406 works; in the previous year 377 works had been discharged in similar fashion; in the year before that 406; in the year before that 420½. Ploughing, mowing, harrowing and the like are always wanted; other works are accounted for now in one fashion, now in another. In one year 26 works were spent on the vineyard at Ely, in another 3 works were spent in catching rabbits; but on the whole the opera are laid out in much the same manner in each successive year.

### § 3. *The Manorial Accounts in Edward II's Day*

I have examined the accounts for the last six years of Edward II's reign; their scheme is as follows: The accountant is the reeve; his year runs from Michaelmas to Michaelmas. He begins by debiting himself with the arrears of previous years. The next item consists of "Rents of Assize." These are the old money dues payable by freeholders and customary tenants; they amount to no great sum, about *2l.*, but show a slight tendency to increase, owing to the "arrentation" of some of the minor services; for instance, 10*d.* is accounted for in respect of a release of the duty of collecting sticks in the park at Somersham. Next comes "Farm of Land," a single item of 32*s.* in respect of 24 acres of demesne land which have been let at a rent. By far the most important item is "Sale of Crops," a very variable item, fluctuat-

ing between 8*l.* and 54*l.* Then follows "Sale of Stock." Then comes "Issues of the Manor" (*Exitus Manerii*). Under this head the reeve accounts for the number of "works" that have been "sold," also on occasion for the price of fowls and turf. The "Perquisites of the Court" comprise not only the amercements, but also the fines payable on alienation of the customary tenements and the like. The last item consists of "Sales accounted for on the back of the Roll"; these seem to consist chiefly of sales of malt. The total income varies between very wide limits, rising to 66*l.*, falling to less than 20*l.*

On the credit side the first heading is "Allowances" or "Acquittances." A sum of 3*d.* has to be allowed because the reeve is excused that sum from his rent. Under "Custus Carucarum" stands the cost of making and repairing ploughs, shoeing horses, and so forth. About 5*s.* per annum is spent in paying 2*d.* per plough per day for every one of the sixteen ploughs of the tenants engaged in the "boon ploughing" for winter seed and for spring seed. The "Cost of Carts" is sometimes separately accounted for; the cost of "Repairs of Buildings" is by no means heavy. Under "Minute Necessaries" fall the price of various articles purchased, also the wages of the only money-wage-receiving laborers who are employed on the manor — namely, a swineherd at 4*s.* 4*d.* per annum and an occasionally employed shepherd at 5*s.* a year. "Threshing and Winnowing" are paid for as piece work. "Purchase of Corn" and "Purchase of Stock" are headings that need no comment. Under "Mowing and Harvesting" (*Falcatio et Autumpnus*) we find no heavy charge; all that has to be paid for is the tenant's harvest dinner, and the wages during harvest of the reeve and the "repereve." Sometimes under the head of "Forinsec" (or Foreign) "Expenses" occur a few small sums not expended directly on the manor.

The reeve then accounts for the money that he has paid into the Exchequer at Ely, and then the account is balanced and generally leaves him in debt. Apparently the annual profit of the manor varies between very wide limits. The reason of this fluctuation is to be found chiefly in the sales of corn. The highest prices of the wheat sold in these six years are as follows: —

| | *s.* | *d.* | | | *s.* | *d.* |
|---|---|---|---|---|---|---|
| 1321–2 . . . | 12 | 0 per quarter | 1324–5 . . . | | 7 | 0 per quarter. |
| 1322–3 . . . | 11 | 0 per quarter | 1325–6 . . . | | 5 | 0 per quarter. |
| 1323–4 . . . | 7 | 2 per quarter | 1326–7 . . . | | 3 | 4 per quarter. |





Such figures as these, though they may be familiar enough to economists, are worth notice, for they show us that however stable an institution the manor may have been from century to century, agriculture involved a very high degree of risk.

On the back of the account roll the reeve proceeds to account for the produce of the manor and the "works" of the tenants. First comes *Compotus Grangie* ("Barn Account"). The reeve has received so many quarters of wheat from the barn; so many have gone in seed, so many in provender for the manorial servants, so many remain in the barn. Rye, barley, pease, oats, and malt have to be similarly accounted for; the account is checked by tallies between the reeve, the reaper, and the barnkeeper. There are four ploughmen and one shepherd who are *famuli manerii* and in receipt of corn, each of them getting one quarter per week during some twelve weeks of the year. Next comes *Compotus Stauri* ("Account of Live Stock"), under which heading the horses, oxen, and pigs are enumerated. Then under *Compotus Operum* ("Account of Works") the reeve has to show, as explained above, how some 3700 works have been discharged, the autumn works, worth a penny apiece, being distinguished from the winter and summer works, worth a halfpenny.

Now, glancing at the manor as a whole, we see that to a very large extent it is still dependent on the labors of its villeins. The whole amount received by way of rent is but *2l.* 10*s.*, or thereabouts, while the price of works sold brings in some *3l.* or *4l.* Almost all the regular agricultural work, with the exception of threshing and winnowing, is done for the lord by his tenants. He is as yet no great "employer of labor" in the modern sense; wages are a comparatively trifling item in his accounts. He generally employs a hired swineherd and a hired shepherd, and during some part of the year he has ploughmen, who are paid in grain. But the main part of his ploughing, reaping, mowing, harrowing, is done by those who are bound to do it by status or tenure. . . .

### § 4. *The Manor at the Close of the Fourteenth Century*

From the reign of Edward III there are no accounts; but turning to those of Richard II's time we find that the theory of the account, so far as "works" are concerned, is still the same. It is now reckoned that there are 2970 winter and summer works, worth a halfpenny apiece, and 813 autumn works worth a penny

apiece, to be accounted for. Some of these works are "sold," some not sold; thus in the year ending Michaelmas, 1393, we find 183 works of the one class and 93 of the other class accounted for as sold. The number of works sold varies much from year to year.

Many hundred works are still done in kind; but the number so done has been diminished, because no less than four full lands and nine cottier tenements "are in the lord's hand" and have been let out at money rents. This has introduced into the account a new element — namely, "Rent of Bond Land" (*Firma Terre Nativa*) or (*Firma Terre Nativorum*), which brings in about 9*l.* a year. A large number of opera has, therefore, to be subtracted on this score, *e.g.* 528 winter and summer works in respect of the said 4 full lands and 836 similar works in respect of the said 9 cottier tenancies.

Exactly when or how the change occurred the extent accounts do not show. Already in the first year of Richard II there were 3 full lands and 8½ cottier tenements, let at a rent for short terms of years and doing no work. But by connecting the accounts with the court rolls we are enabled to infer that these lands were vacated by villeins who fled late in the reign of Edward III; thus the first full land on the list is that of John Thorold, who fled in 1376 or thereabouts, and of whose flight the court rolls continue to talk for the next forty years.

Turning, therefore, to the court rolls, we find many entries which seem to show that during the last half of the fourteenth century and the first quarter of the fifteenth the lord had great difficulty in keeping and finding customary tenants on the old terms. . . .

At the very end of the fourteenth century many of the old "works" were exacted. In some years more were "sold," in some less. In the year ending Michaelmas, 1397, only eight out of 2970 winter and summer works were sold; some 800 were actually done, many of the others were discharged by the fact that four of the full lands and no less than ten of the cottage tenements had fallen into the lord's hand and had been let by him either permanently or temporarily at money rents. And on the whole the economy of the manor is far from being an economy of cash payments. The lord is no great payer of wages. For the regular field work he has no need of hired laborers; his only permanent wage-receiving hind is a shepherd; but there are ploughmen who receive allowances of grain.





### § 5. *The Manor in the Fifteenth Century*

Passing on now to Henry IV's reign, we find that the old mode of reckoning is still preserved. There are still 2970 winter and summer works due, but 5 full lands and 10 cottier tenements have fallen into the lord's hand and bring in nothing but money; more than 10*l.* has now to be accounted for as "Rent of Bond Lands," and a proportionate number of works has to be subtracted. Of the other works some are sold; in one year 204 of the winter and summer works are sold, while 114 have been discharged by harrowing. In 1407, however, the basis of the account was changed; it became a recognized fact that 6 full lands were no longer in opere, and the total number of winter and summer works to be accounted for was reduced to 1188 and that of autumn works to 378.

A great change seems to have taken place soon after this, during a period for which we have no accounts. In the first year of Henry VI (1423) the "Rent of Bond Lands" has risen to 22*l.* All the "works" seem now to be released (*relaxantur custumariis domini*) except the boon ploughing: 76 "diets" of ploughing due from the customers whether free or bond. Very shortly after this, in or about 1426, another great change was made. The demesne of the manor, containing 246 acres of arable land and 42 acres of meadow, was let to farm at a rent of 8*l.*, and the demise of the land which had been actually in the lord's hand seems to have carried with it the right to the ploughing service; that service, therefore, no longer concerns the bishop while the lease lasts. The demesne land is let *cum operibus et consuetudinibus omnium customariorum operabilium.* This soon leads to a great simplification and abbreviation of the accounts, an abbreviation to be measured in feet. The receipts are now the old assize rents, the rent of the demesne, the rents of the bond lands, the perquisites of the court; the opera are no longer brought into the account, and the purchases and sales of stock and crops disappear, for these, of course, concern the firmarius, not the lord. The firmarius, it may be noted, is just one of the men of the vill, one of the copyholders, as we may now call them; in the first instance he is the same man who is acting as reeve.

Thenceforward the bishop seems to have been able to keep the demesne land in lease, now one, now another of the copyholders taking it for a term of years: thus under Edward IV it was let for

16 years at a rent of 7*l.* It is always recognized that the subject of this demise comprises "the customs and works of the customary tenants of the lord." Meanwhile the "Rent of Bond" or "Natives' Land," which has declined from 22*l.* to about 17*l.*, remains constant. . . .

This evidence therefore seems to point to a great change under Henry V (1413–1422). In the last year of Henry IV the rent of the bond lands is entered at 11*l.* 5*s.* 6*d.*; it is still reckoned that 1056 halfpenny works and 336 penny works are due; many of these are actually done in kind, though some are "sold." When the account begins again under Henry VI the rent of bond lands is 22*l.* 2*s.* 10*d.*, almost exactly double the old amount, and all the works that are accounted for are 76 diets of ploughing. This change was immediately followed by another — namely, the letting of the demesne, the scitus manerii, as it is sometimes called — together with the benefit of whatever opera remained uncommuted. Whether the commutation under Henry V was originally regarded as more than a temporary or revocable measure does not appear; practically it seems to have been the final step. . . .

### § 6. *Summary of the Development of the Manor*

The conclusions to which these rolls would lead us may now be stated in a summary fashion.

*Before* 1350 *or thereabouts.* — The lord gets very little by way of money rent. His demesne is cultivated for him by the "works" of his customary tenants. More works are due than are wanted, and each year he sells a certain number of works at a customary rate — that is to say, he takes from the person liable to work a penny or, as the case may be, a halfpenny in respect of each work that he does not want. The customary tenants are for the most part, if not altogether, unfree men, and are treated as such.

*From* 1350 *to* 1410 *or thereabouts.* — There is as yet no permanent commutation of work for rent. The lord, however, finds the greatest difficulty in keeping old and obtaining new tenants; his tenants, more especially the cottagers, run away and relinquish their tenements. The lord still hopes to obtain tenants on the old terms, but in the meanwhile has to make temporary grants or leases at money rents, and from time to time to reduce those rents. From the tenants who still hold on the old terms, he still exacts a considerable number of works, while other works he "sells"

to them year by year. Many of the tenants are still unfree and are treated as such.

*After* 1410 *or thereabouts.* — It having at last been recognized that many of the tenements are no longer in opere, and that there is no prospect of a return to the old state of things, a general commutation of all works (except some ploughing) takes place. Perhaps this is not at once conceived as a final change, but practically it is irrevocable. The rents are the best rents that the lord can get, and in course of time it is necessary to reduce them. The demesne land, together with the benefit of such works as are uncommuted, is now let, for short terms of years, to a farmer. The lord of the manor becomes, in effect, little more than a receiver of rent. Very few practical traces of personal servitude remain, but we read of no formal emancipation of the bondmen, and the lord is careful to preserve a record of their bondage.

*In the Sixteenth Century.* — Owing to the fall in the value of money, the copyholder gradually acquires a valuable right in his holding. His rent — less than a shilling an acre — becomes light. I will not generalize, but to me it seems that in this instance the copyholder's vendible interest is almost entirely an unearned increment, the product of American mines.

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# CHAPTER II

## THE MEDIÆVAL GILDS

A STUDY of the manor as a part of mediæval economy must be supplemented by an examination of the towns and their gilds. Though the population of the towns at the Norman Conquest constituted a small part of the population of the kingdom, their political and financial influence was doubtless out of proportion to their numerical strength. Moreover, they steadily increased in numbers and power, especially after the introduction of parliamentary institutions. Though the origins of early towns and their internal government are the subjects of considerable controversy, the student will do well to take as his starting-point Professor Ashley's chapter on the gilds, which is a very clear and systematic treatment of the subject.

### § 1. *The Origin of English Towns*[1]

At the time of the Norman Conquest there were some eighty towns in England. Most of these were what we should now consider but large villages; they were distinguished from the villages around only by the earthen walls that surrounded them, or the earthen mounds that kept watch over them. London, Winchester, Bristol, Norwich, York, and Lincoln were far in advance of the rest in size and importance; but even a town of the first rank cannot have had more than seven or eight thousand inhabitants. We shall perhaps be not far wrong if we estimate the town population at about a hundred and fifty thousand out of a total population of about a million and a half.

As to how these towns had come into existence, it were scarcely profitable to construct any definite theory until the condition of

[1] Ashley, *An Introduction to English Economic History and Theory*, Pt. I, pp. 68 ff. By permission of Professor Ashley and G. P. Putnam's Sons, Publishers.

the body of the population of early England has been more sat
factorily determined than it is at present. But it is readily se
that population would tend to congregate at places where hig
roads crossed one another, or where rivers could be forded; su
places, indeed, would in many cases be of strategic importance, a
so would come to be fortified. There is no reason to suppo
that any monastic orders, before the Cistercians, "lived of s
purpose in the wilderness"; monasteries and cathedral church
were placed where villages were already in existence. But b
neath the shelter of the monasteries the villages soon grew in
small towns; the labor services to which their inhabitants we
bound, or the commutation for them which they paid, long tes
fying to the originally servile character of the holdings. Many
village around the fortified house or castle of some great nob
had a similar history.

Such towns necessarily became centres of what little intern
trade there was. For although agriculture long remained o
of the principal employments of the burgesses, yet it must ha
early been necessary for supplies of food to be brought from t
country around; this is the most primitive and essential form
trade. The lords, to whom the towns were subject, would s
their interest in the establishment of markets in which protecti
was guaranteed, and paid for in the shape of tolls; and so can
into existence those weekly or half-weekly market days whic
in spite of improved means of communication, are still so impo
tant in England.

Commerce with the Frank kingdom had long been carried
from London and the ports of Kent, especially Sandwich a
Dover. Traffic with the Danish settlements on the Irish coa
a traffic in which slaves were the chief commodities, brought Che
ter and Bristol into prominence in the tenth and eleventh centurie
and the connection with the Scandinavian kingdoms, caused
Canute's conquest, brought York, Grimsby, Lincoln, Norwic
Ipswich, and many other ports along the eastern coast, into acti
commercial communication with the Baltic countries. Yet t
trade with foreign countries cannot have been large; the war
which, in an old English dialogue, the merchant describes himse
as bringing with him, seem to be all articles of luxury such
would be needed only by the higher classes, — "purple cloth, sil
costly gems and gold, garments, pigments, wine, oil, ivory a
brass, copper and tin, sulphur, glass, and such like." The me
tion of merchants in the English laws is so infrequent that we c

hardly suppose that any considerable trading class had come into existence.

In the troublous years which followed the landing of the Conqueror the more important English towns suffered greatly; in some cases a third or half the houses were destroyed, and the population reduced in like proportion — a result to which the chances of war and William's policy of castle-building contributed in equal measure. But even during the twenty years before the great survey of 1086, the towns on the southern coast had begun to profit by the closer connection with the opposite shore. And as soon as the Norman rule was firmly established, it secured for the country an internal peace and order such as it had never before enjoyed; the temporary retrogression was more than made up for, and in town after town arose the merchant gild.

### § 2. *Character and Origin of the Merchant Gild*

The merchant gild, or hanse, for the words are used synonymously, was a society formed primarily for the purpose of obtaining and maintaining the privilege of carrying on trade — a privilege which implied the possession of a monopoly of trade in each town by the gild brethren as against its other inhabitants, and also liberty to trade in other towns. The exact character of the monopoly probably varied somewhat from place to place. Everywhere, apparently, non-members were left free to buy and sell *victuals;* but if they went further and engaged in regular trade, they became subject to tolls from which the gild brethren were free. If the trader was prosperous enough to pay the entrance money and become a member of the gild, but obstinately refrained from doing so, he was coerced into compliance by repeated fines. In some places a promise to inform the gild officers of any man trafficking in the town and able to enter the gild was part of the entrance oath of every brother. Each member paid an entrance fee, and probably other dues to the gild chest, which were spent for the common purposes of the gild, especially in festivities. And since no society could be conceived of in the Middle Ages without some sort of jurisdiction over its members, the gild merchant, in its meetings known as "morning-speeches," drew up regulations for trade and punished breaches of commercial morality.

Now there certainly had existed before the Conquest both religious gilds and frith gilds, *i.e.* clubs or societies for the per-





formance of certain pious offices, and for mutual assistance in the preservation of peace. It is quite possible, therefore, that similar societies for the purpose of trade may have been formed equally early; but the first positive mention of a merchant gild is certainly not earlier than 1093. With the reign of Henry I begins the long series of charters granted to towns by the king or other lords. Under Henry II such charters were obtained, among other places, by Bristol, Durham, Lincoln, Carlisle, Oxford, Salisbury, Southampton; and in all these charters the recognition of a merchant gild occupies a prominent place. Indeed, the lawyer Glanvill, writing at this time, regards the commune, *i.e.* the body of citizens with rights of municipal self-government, as identical with the gild merchant. Such merchant gilds may have been in existence for some time before they were recognized by charter; the value of the charter lay rather in the sanction which it gave to the coercive action of the society, and the rights which it secured for its members in other than their own towns. In spite of the paucity of evidence, the existence of a merchant gild can be definitely proved in ninety-two towns out of the hundred and sixty represented at one time or other in the Parliaments of Edward I. No considerable name — with two exceptions; namely, London and the Cinque Ports — is wanting from the list. It is impossible not to conclude that every town, down to those that were not much more than villages, had its merchant gild. This fact of itself is enough to prove the great part it must have played in the town life of the time.

The evident similarity of the regulations of those four gilds whose ordinances have been preserved, in places so far apart as Totnes, Southampton, Leicester, and Berwick, can only be explained by supposing that merchant gilds all over England had much the same organization. Each was presided over by an alderman (in some cases two), with two or four assistants, usually known as wardens or échevins; and sometimes there were stewards also. There was generally a small inner council of twelve or twenty-four. The alderman and wardens, besides summoning and presiding over the meetings and festivities, managed the funds of the society, as well as its estates when, as was frequently the case, the gild had purchased or otherwise acquired land.

### § 3. *Membership in the Merchant Gild*

Who were eligible for membership it is impossible with certainty to determine. It is clear that the association included a very

considerable number of persons, *e.g.* as many as two hundred in the small town of Totnes; that while it embraced merchants travelling to distant markets, it did not, at any rate at first, exclude craftsmen as such; that the eldest sons or heirs of gildsmen had a right to free admission, and younger sons on paying a smaller entrance fee than others; and that, certainly also at first, members could give or sell their rights, and transmit them to heiresses, who might exercise them themselves or give them to their husbands or sons.

The most usual term for the rights of membership was *seat, sedes;* members were said to *seek, have, sell,* or *give* their *seat,* which was often described as *below* or *above* that of another — a phrase possibly referring originally to a place in the market. The word *gild* is also sometimes used for all the rights of membership, though more frequently for the meetings of the society, especially for the solemn gatherings once or twice a year.

We know that merchants from other towns were admitted to membership, and that the same privileges were often obtained by neighboring monasteries and lords of manors. But clearly the bulk of the members belonged to the town itself, and there are strong reasons for supposing that, of the inhabitants, only such were admitted to membership as held land within the town boundaries — the *burgage* tenants, *burgenses* or *cives,* burgesses or citizens *par excellence,* who alone were fully qualified members of the town assembly.

We must not, however, regard the members of the gild as being all of them great merchants. In most towns agriculture was still one of the main occupations of the burgesses; but most holders of land would find it desirable to sell at any rate their surplus produce. The articles most frequently mentioned in the gild documents — skins, wool, corn, etc. — show that the trade consisted almost entirely in the sale and purchase of the raw products of agriculture. It has already been noticed that non-members were often permitted to buy and sell subject to the payment of tolls, but in some cases trade in certain articles was entirely forbidden to them, *e.g.* in skins. More important still is it to observe that in some places the manufacture of cloth had become so considerable that the merchant gild thought it worth while to obtain from the king a monopoly of the retail sale of the dyed cloth used by the upper classes, or even of the retail sale of all cloth. We shall see later how these privileges brought them into conflict with the craft gilds.





### § 4. *Gild Regulations*

We have noticed that the gild assemblies, or its officers on its behalf, drew up regulations and exercised a jurisdiction in matters of trade. These regulations illustrate clearly a characteristic common both to the merchant and craft gilds; namely, that while each individual member was within certain limits allowed to pursue his own interests as he thought best, there was nevertheless a strong feeling that the trade or industry was the common interest of the whole body; that each was bound to submit to regulations for the common good, and to come to the assistance of his fellow-members. Thus it was ordered in Leicester that the dealers in cloth, going to the fair of S. Botolph in Boston, should place themselves on the southern side of the market, and the wool dealers on the northern. Somewhat later it was provided that the Leicester merchants at Boston should always display their cloth for sale within the "range" in which the Leicester men were accustomed to stand, under penalty of having to pay a tun of ale. A man might, indeed, for the sake of security, take his cloth home with him at night to a lodging outside the "range," but he was not to sell it outside the row. Only in such a way was it possible to exercise any supervision over those who claimed to come from Leicester; and only in this way could a fraudulent dealer be hindered from ruining the credit of the town's wares. But in return for these restrictions the gildsman gained the benefit of protection. If a gildsman of Southampton were put into prison in any part of England, the alderman and the steward with one of the échevins were bound to go at the cost of the gild to procure his deliverance. At Berwick "two or three of the gild" were bound to "labor" on behalf of any one in danger of losing life or limb, though only for two days at the gild's expense. Individuals were not to monopolize the advantages of trade. In Southampton, while a bargain was being made, any other member could come up and claim to join it on giving security that he could pay for the portion desired. In Berwick, a man who bought a lot of herrings must share them at cost price with the gildsmen present, and any one not present could have his share on paying the price and twelvepence to the buyer for profit.

The jurisdiction of the gild, of course, had for its chief purposes the maintenance of the society's privileges. There are frequent ordinances against acting as agent for the sale of goods belonging

to non-members, or teaching or aiding a strange merchant to purchase to the injury of the gild. But an equally important object was the maintenance of fair dealing and of a high standard of quality in the goods sold. The rolls contain numerous records of fines for dishonestly dyeing wool, for mixing bad wool with good for short weight, for selling at more than the assize or fixed price, as well as for the offence of forestalling, which we shall see later to have been so carefully guarded against.

The brotherhood, moreover, was unlike a modern society aiming at some particular material advantage in that it entered into a great part of everyday life. Sick gildsmen were visited, and wine and food sent to them from the feasts; brethren who had fallen into poverty were relieved; their daughters were dowered for marriage or the convent; and when a member died his funeral was attended by the brethren and the due rites provided for.

It was, as we have seen, in the second half of the eleventh century that merchant gilds began to come into existence; during the twelfth century they arose in all considerable English towns. The rise of craft gilds is, roughly speaking, a century later; isolated examples occur early in the twelfth century, they become more numerous as the century advances, and in the thirteenth century they appear in all branches of manufacture and in every industrial centre.

### § 5. *The Craft Gild and Its Relation to the Merchant Gild*

Craft gilds were associations of all the artisans engaged in a particular industry in a particular town, for certain common purposes: what those purposes were will be seen later. Their appearance marks the second stage in the history of industry, the transition from the *family system* to the *artisan* (or *gild*) *system*. In the former there was no *class* of artisans properly so called; no class, that is to say, of men whose time was entirely or chiefly devoted to a particular manufacture; and this because all the needs of a family or other domestic group, whether of monastery or manor-house, were satisfied by the labors of the members of the group itself. The latter, on the contrary, is marked by the presence of a body of men each of whom was occupied more or less completely in one particular manufacture. The very growth from the one to the other system, therefore, is an example of "division of labor," or, to use a better phrase, of "division of employments." If, like Adam Smith, we attempted to determine "the natural progress of

opulence," we might formulate the law of development thus: In an agricultural community the first division of employments that will appear will be between the great bulk of the population who continue to be engaged in agriculture and that small number of persons who occupy themselves in transferring the surplus raw produce of one place to other places where there is need of it. When, however, as in the case of England, a country is surpassed by others in the arts, or is unable to furnish itself with articles of luxury, such as precious stones, dealers in such imported commodities desired by the wealthier classes will appear even before there is a class of dealers in the raw produce of the country. But in any case the growth of a small merchant or trading class precedes that of a manufacturing class. . . .

The relation of the craft gilds to the merchant gilds is a very difficult question. In many of the towns of Germany and the Netherlands a desperate struggle took place during the thirteenth and fourteenth centuries between a burgher oligarchy, who monopolized the municipal government, and were still further strengthened in many cases by union in a merchant gild, and the artisans organized in their craft gilds, the craftsmen fighting first for the right of having gilds of their own, and then for a share in the government of the town. These facts have been easily fitted into a symmetrical theory of industrial development; the merchant gilds, it is said, were first formed for protection against feudal lords, but became exclusive, and so rendered necessary the formation of craft gilds; and in the same way the craft gilds became exclusive afterwards, and the journeymen were compelled to form societies of their own for protection against the masters. It was not difficult to explain the much scantier notices as to English affairs by the light of this theory, and to make up for the silence of English chroniclers by foreign analogies.

The very neatness of such a theory, and the readiness with which it has been accepted by popular writers in spite of the paucity of English evidence, have perhaps led some historians to treat it with scant consideration. It is urged that there is no evidence of any such contest in this country between burghers and artisans. It is further maintained that the craft gilds had but little independence, and are to be regarded as merely the machinery by which municipal authorities supervised manufacture. Yet this view does not seem satisfactory in view of the information which has been lately brought to light with regard to the merchant gild. The following theory as to the relations of the various bodies cannot be regarded

as more than a theory; but it does not seem to be in collision with facts, and it is confirmed by much indirect evidence.

Membership of the town assembly, the *court leet*, or *portmanmote* seems to have been originally bound up with the possession of land within the town boundaries, and it was the right to appear in such an assembly that must originally have made a man a burgess or citizen. Of such burgesses the merchant gild of each town was constituted. At first the term *merchant*, or *trader*, would cover all those who had occasion to sell or buy anything beyond provisions for daily use; and the holder of a plot of land, however small, who was also a craftsman, would not be excluded. But this harmonious union must have been disturbed in two ways. There came into existence a class of landless inhabitants of the towns, owing probably in the main to the natural increase of the town population itself, but also perhaps partly to some influx of serfs from the country districts. These landless inhabitants could not be regarded as burgesses at all, and therefore could not be admitted into the merchant gild, even if they had desired, and had been able to pay the entrance money. Many of them would become servants to the richer citizens, but some would turn to handicrafts. And, secondly, although in a small town, such as Totnes, the traders' gild might long continue to include craftsmen, in the larger towns there would be a tendency for the management of the gild to fall entirely into the hands of "merchants" in the modern sense of the word, until at last they could venture to impose and enforce the rule that before admission to the gild an artisan must abjure his craft. But by this time the merchant gild, whose members must have from the first exercised a predominant influence in the town, had become practically identical with the governing body; or, rather, a municipal organization had come into existence which combined the rights of jurisdiction of the court leet with the rights of trade of the merchant gild. Thus two distinct issues were raised: were the craftsmen to obtain for their gilds right of supervision and jurisdiction over their members, apart from and independent of the powers of the municipal authorities? and were they to continue to submit to the trading monopoly of the gild merchant?

### § 6. *The Early Craft Gilds and their Control*

The first craft gilds that come into notice are those of the weavers and fullers of woollen cloth. It was the weavers' gild, all over





Western Europe, that began and led the struggle against the old governing bodies. The reason is obvious: the manufacture of materials for clothing was the first industry in which a wide demand would make it worth while for men to entirely devote themselves to it, and therefore it was the first in which a special body of craftsmen appeared. Gilds of bakers, indeed, are to be found almost as early; but so much less skill is required in baking than in weaving, that it long remained, as it still does to a great degree, a family employment. Hence bakers could never be so numerous as weavers; and as the former manufactured for immediate consumption, they scarcely came into conflict with the trading monopoly of the merchants.

We owe to the chance existence of the Pipe Roll for 1130 the knowledge that in that year there were gilds of weavers in London, Lincoln, and Oxford, making annual payment to the king in return for his authorization of their existence; the weavers of Oxford, referring in the reign of Edward I to the time when the payment was fixed, declared that their gild then contained sixty members. In the same reign there was also a gild of corvesars, or leather-dressers, in Oxford. During the early years of Henry II gilds of weavers are also found at York, Winchester, Huntingdon, and Nottingham, and a gild of fullers at Winchester, each making annual payments to the Exchequer. The annual payment was not merely a tax; it was the condition upon which they received the sanction of the government. Gilds that the king had not authorized were amerced as "adulterine," as was the case in 1180 in London with the gilds of goldsmiths, butchers, pepperers, and cloth-finishers. But there seems to have been no attempt to forcibly dissolve the adulterine societies; they were not large enough to arouse the jealousy of the London burgesses, and every one of them survived to take its place among the later companies.

The only definite provision besides a general confirmation of "liberties and customs" in the earliest charters — such as those granted to the weavers of London and York by Henry II — was that no one within the town (sometimes the district) should follow the craft unless he belonged to the gild. The right to force all other craftsmen to join the organization — *Zunft-zwang*, as German writers call it — carried with it the right to impose conditions, to exercise some sort of supervision over those who joined. It was natural that the earliest gilds, growing up with a certain antagonism to the burgesses, should seek to make their jurisdiction as wide as possible. But such an independent authority would

intensify the jealousy of the governing bodies in the towns. The length to which the antagonism between the burghers and artisans might go is clearly illustrated in London. We do not know whether there had ever been a gild merchant in London; however, in 1191, by the recognition of its "commune" the citizens obtained complete municipal self-government, and consequently the recognition of the same rights over trade and industry as a gild merchant would have exercised. Almost immediately they offered to make an annual payment to the Exchequer if the weavers' gild were abolished. John accepted the offer, and in 1200 the gild was abolished by royal charter. For some reason or other it was again restored in two or three years; but long afterwards the weavers did not feel themselves out of danger.

### § 7. *Struggle of the Craftsmen for Privileges*

In other towns it is the economic struggle that is most clearly discernible. We have seen that the charters to towns granting permission to have a merchant gild usually contained a clause to the effect that none but the members of that society were to engage in trade, and that it is expressly stated in one case that they are to have the monopoly even of the retail sale of cloth. There is reason to believe that this was a monopoly very generally insisted upon. The London *Book of Customs* contains certain entries entitled the "Laws" of the weavers and fullers of Winchester, Oxford, Beverley, and Marlborough — reports or copies which the London magistrates must have obtained sometime in the thirteenth century to strengthen their cause. These "laws" draw a sharp distinction between the craftsman and the freeman, *franke homme*, of the town. No freeman could be accused by a weaver or a fuller, nor could an artisan even give evidence against one. If a craftsman became so rich that he wished to become a freeman, he must first forswear his craft and get rid of all his tools from his house. No weaver or fuller might go outside the town to sell his own cloth and so interfere with the monopoly of the merchants; nor was he allowed to sell his cloth to any save a merchant of the town. Indeed, he must get the consent of the "good men" of the town before he could even carry on his craft; and he was not to work for any but the good men of the town. This last rule reappears in an order of the gild merchant of Leicester as late as 1265, prohibiting the craftsmen of the town from weaving for the men of other places so long as they had sufficient work to do for the burgesses of Leicester.





The materials are not yet accessible which would allow us to trace the way in which the old organization of the burgesses lost its exclusive rights; or, what is perhaps only the other side of the same change, the way in which the craftsmen gained the rights of burgesses. The trading monopoly was lost, probably, before the end of the thirteenth century. It is at any rate evident that the statute of 1335 allowing foreign merchants to trade freely in England is framed in such terms as to clearly include English craftsmen in the permission it gives, and that it must have had the effect of weakening any monopoly which the governing class in any of the towns might still claim. . . . With the loss of their trading monopoly disappeared the *raison d'être* of the gilds merchant, and with it of the gilds themselves as separate organizations. In many towns the name long survived, but only as a term to describe certain functions of the municipal authorities, especially the admission of apprentices to the freedom of the city. In others the gild reorganized itself in the shape of a social and religious society; while in one or two it is possible that the later company of merchant adventurers grew out of the gild merchant. . . .

### § 8. *The Growth of the Craft Gilds*

At the end of the reign of Edward III there were in London forty-eight companies of crafts, each with a separate organization and officers of its own, a number which had increased to at least sixty before the close of the century. Other important towns must have seen a like increase in the number of artisans and a like formation of companies, though subdivision did not go so far. In towns of the second rank, such as Exeter, the development is later and occupies the following century; while in the smaller towns companies were only formed when there was a considerable body of men employed in the same craft, so that many artisans remained unbound by any such organization and subject only to the regulations imposed by statute, or by the mayor or bailiff.

We are able roughly to determine the period at which the formation of companies instead of being opposed began to be forwarded by the municipal authorities. Until the reign of Edward I, seemingly, craft gilds had arisen spontaneously for the mutual help and advantage of the craftsmen: they had been obliged to make annual payments to the king or other lords to secure recognition, and they had found it difficult to maintain their rights against the municipal authorities. The reign of Edward I appears to mark

the turning-point in their history. He saw that they might be a useful counterpoise to the power of the governing bodies in the towns and therefore exerted his influence on their side. On the other hand, the establishment of a strong central authority made it less necessary and less possible for the newly rising gilds to obtain such extensive rights of jurisdiction as the *Zünfte* in Germany or the weavers' gild in London in the previous century. Accordingly, we see a new policy in the craft ordinances, which from the reign of Edward II have been preserved in such numbers. The gild system no longer was merely tolerated; it was fostered and extended, though doubtless primarily for police purposes, — to insure due supervision of the craft and the punishment of offenders against regulations, through persons chosen by the craft but responsible to the municipal authorities. Up to this time the gilds had been few in number, because there had been few artisans, and only such as were engaged in meeting most elementary wants, food and clothing, such namely as bakers, butchers, leather-dressers — above all those engaged in the manufacture of cloth, weavers, fullers, and dyers.

But now a rapid increase in the number of artisans takes place; new wants begin to be felt, and each new want is supplied by a separate body of craftsmen. Consequently we find the municipal authorities confirming or creating companies, not only of such wholesale dealers as grocers and drapers, but also of such artisans as spurriers, helmet makers, brace makers, farriers, wax-chandlers, scriveners, and piemakers. It is often not easy to determine whether the ordinances which first mention these companies actually created them. In many cases probably they had come into existence spontaneously somewhat before the date of the ordinances "accepted by the mayor and aldermen at the suit and request of the folk of the trade." But in many cases also the organization was imposed from without by municipal rulers. . . .

### § 9. *Internal Organization of the Craft Gild*

The internal organization of the craft gilds can be briefly described. The most important part of it was the authority of the wardens, overseers, bailiffs, or masters, whose chief duty was to supervise the industry and cause offenders to be punished. They were elected annually at full assemblies of the men of the craft, absence from which was punished by fine; and it was at such or similar gatherings that from time to time new regulations were





drawn up to be submitted to the approval of the mayor and aldermen. No one could work at the craft who had not been approved and admitted to the gild by its officials; and it would seem that in London, from the middle of the fourteenth century, admission to the freedom of the city and to a craft took place at one and the same time.

In the early part of the fourteenth century, apprenticeship was only gradually becoming an absolutely necessary preliminary to setting up as a master; to the same period is due the fixing of the term of apprenticeship at seven years. A separate *class* of *journey-men* was also only just coming into existence. It was still, apparently, the usual practice for a man, on coming out of his apprenticeship, to set up for himself. Such "serving-men" as there were, made contracts with master-craftsmen to work for them for a certain term, sometimes for a period of several years. But from the frequency with which the rule is repeated, that "no one shall receive the apprentice, serving-man, or journeyman of another in the same trade during the term agreed upon between his master and him," and the frequency also with which the mayor of one town has to write to the mayor of another to ask that runaways should be sent back, it appears that apprentices often became discontented, and absconded. The gild ordinances imply that, as a rule, only master-craftsmen took part in the government of the fraternity, but there is at least one case where ordinances are described as agreed to "as well by serving-men as masters." It does not appear that as yet the number either of journeymen or of apprentices that one master could take was limited by legislation or ordinance; but we shall see later that the limitation of number in the sixteenth century was in order to maintain an existing state of things, so that it is probable that at this time a master artisan would not usually have more than one or two journeymen and one or two apprentices.

The regulations drawn up by the crafts aimed at the prevention of fraud, and the observance of certain standards of size and quality in the wares produced. Articles made in violation of these rules were called "false," just as clipped or counterfeit coin was "false money." For such "false work" the makers were punished by fine (one-half going to the craft, the other half to the town funds), and, upon the third or fourth offence, by expulsion from the trade. Penalties were provided, as far as possible, for every sort of deceitful device: such as putting better wares on the top of a bale than below, moistening groceries so as to make them

heavier, selling second-hand furs for new, soldering together broken swords, selling sheep leather for doe leather, and many other like tricks. It was for the same reason that night work was forbidden; not, as Brentano says, with the philanthropic object of providing work for all, but because work could not be done so neatly at night, and because craftsmen, knowing they were not likely to be visited at that time by the wardens, took the opportunity to make wares "falsely," or because working at night disturbed the neighbors. It seems, however, to have been a general rule, that men should not work after six o'clock on Saturday evening, or on eves of double feasts. There is, indeed, one regulation which does seem designed to insure men's having work, and that is, that "no one shall set any woman to work, other than his wedded wife or his daughter."

It is certain, from the analogy of the gilds merchant, as well as from what we know of the later usages of the companies and of the practices of similar bodies abroad, that in each of the craft gilds, besides regulations as to manufacture, there were rules providing for mutual assistance in difficulties, for meetings, festivities, and common worship. But the documents which would throw light on the subject have not yet been published. The craft statutes contained in the archives of the corporation of London deal almost exclusively with the regulation of processes; and this is easy to explain, for only the action of the gilds in the supervision of industry would fall beneath the view of the city authorities; with their internal life as friendly societies the corporation had nothing to do. Fortunately one set of ordinances therein contained, those of the white-tawyers or leather-dressers, in 1346, are more detailed, and from these we may conjecture similar customs in other crafts. They have a common-box for subscriptions; out of this sevenpence a week is paid to any man of the trade who has fallen into poverty from old age or inability to work, and sevenpence a week likewise to a poor man's widow, so long as she remains unmarried. "If any one of the said craft shall depart this life, and have not wherewithal to be buried, he shall be buried at the expense of the common-box; and when any one of the said trade shall die, all those of the said trade shall go to the vigil and make offerings on the morrow." Some of the companies, as we learn later, had chantries and side chapels in parish churches, and solemn services at intervals. The white-tawyers are only able to afford "a wax candle to burn before Our Lady in the Church of All Hallows near London Wall." And there is one clause which

clearly displays the effort after fraternal union: it is one ordaining that "those of the trade" shall aid a member who cannot finish work he has undertaken, "so that the said work be not lost."

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# CHAPTER III

## TOWN LIFE IN THE MIDDLE AGES

In the examination of the manor and the gild, the student gets a clear view of the life of the people of the Middle Ages so far as their economic activities were concerned, and these occupy a great part of the time and thought of the people in all ages. The mediæval town, however, was far more than the gild, and it enjoyed a political independence and self-sufficiency which were afterwards overshadowed by the growing authority and activity of the national government. In view of the recent developments in municipal affairs it is interesting to read the description of mediæval town life which is to be found in Mrs. J. R. Green's volumes on that subject.

### § 1. *Provisions for Municipal Defence*[1]

The inhabitants of a mediæval borough were subject to a discipline as severe as that of a military state of modern times. Threatened by enemies on every side, constantly surrounded by perils, they had themselves to bear the whole charges of fortification and defence. If a French fleet appeared on the coast, if Welsh or Scotch armies made a raid across the frontier, if civil war broke out and opposing forces marched across the country, every town had to look to its own safety. The inhabitants served under a system of universal conscription. At the muster-at-arms held twice a year poor and rich appeared in military array with such weapons as they could bring forth for the king's service: the poor marching with knife or dagger or hatchet; the prosperous burghers, bound according to mediæval ideas to live "after their degree," displaying mail or wadded coats, bucklers, bows and arrows, swords, or even a gun.

At any moment this armed population might be called out to

[1] Mrs. J. R. Green, *Town Life in the Fifteenth Century*, Vol. I, pp. 127 ff. By permission of Mrs. J. R. Green and The Macmillan Company, Publishers.

active service. "Concerning our bell," say the citizens of Hereford, "we use to have it in a public place where our chief bailiff may come, as well by day as by night, to give warning to all men living within the said city and suburbs. And we do not say that it ought to ring unless it be for some terrible fire burning any row of houses within the said city, or for any common contention whereby the city might be terribly moved, or for any enemies drawing near unto the city, or if the city shall be besieged, or any sedition shall be between any, and notice thereof given by any unto our chief bailiff. And in these cases aforesaid, and in all like cases, all manner of men abiding within the city and suburbs and liberties of the city, of what degree soever they be of, ought to come at any such ringing, or motion of ringing, with such weapons as fit their degree."

At the first warning of an enemy's approach the mayor or bailiff became supreme military commander. It was his office to see that the panic-stricken people of the suburbs were gathered within the walls and given house and food; that all meat and drink and chattels were made over for the public service, and all armor likewise carried to the Town Hall; that every inhabitant or refugee paid the taxes required for the cost of his protection; that all strong and able men "which doth dwell in the city or would be assisted by the city in anything" watched by day and night, and that women and clerics who could not watch themselves found at their own charge substitutes "of the ablest of the city."

If frontier towns had periods of comparative quiet, the seaports, threatened by sea as by land, lived in perpetual alarm, at least so long as the Hundred Years' War protracted its terrors. When the inhabitants had built ships to guard the harbor, and provided money for their victualling and the salaries of the crew, they were called out to repair towers and carry cartloads of rocks or stones to be laid on the walls "for defending the town in resisting the king's enemies." Guns had to be carried to the Church or the Common House on sleds or laid in pits at the town gates, and gunstones, saltpetre, and pellet powder bought. For weeks together watchmen were posted in the church towers with horns to give warning if a foe appeared; and piles of straw, reeds, and wood were heaped up on the seacoast to kindle beacons and watch-fires. Even if the townsfolk gathered for a day's amusement to hear a play in the Courthouse, a watch was set lest the enemy should set fire to their streets — a calamity but too well known to the burghers of Rye and Southampton.

Inland towns were in little better case. Civil war, local rebellion, attacks from some neighboring lord, outbreaks among the followers of a great noble lodged within their walls at the head of an army of retainers, all the recurring incidents of siege and pitched battle rudely reminded inoffensive shopkeepers and artisans of their military calling. Owing to causes but little studied, local conflicts were frequent, and they were fought out with violence and determination. At the close of the fourteenth century a certain knight, Baldwin of Radington, with the help of John of Stanley, raised eight hundred fighting men "to destroy and hurt the commons of Chester"; and these stalwart warriors broke into the abbey, seized the wine and dashed the furniture in pieces, and when the mayor and sheriff came to the rescue nearly killed the sheriff. When, in 1441, the Archbishop of York determined to fight for his privileges in Ripon Fair, he engaged two hundred men-at-arms from Scotland and the Marches at sixpence, or a shilling a day, while a Yorkshire gentleman, Sir John Plumpton, gathered seven hundred men, and at the battle that ensued more than a thousand arrows were discharged by them.

Within the town territory the burghers had to serve at their own cost and charges; but when the king called out their forces to join his army, the municipal officers had to get the contingent ready to provide their dress or badges, to appoint the captain, and to gather in money from the various parishes for the soldiers' pay, "or else the constables to be set in prison to abide such time as it be content and paid." When they were sent to a distance their fellow-townsmen brought provisions of salt fish and paniers or bread boxes for the carriage of their food, and reluctantly provided a scanty wage, which was yet more reluctantly doled out to the soldier by his officer, and perhaps never reached his pocket at all. Universal conscription proved then as now the great inculcator of peace. To the burgher called from the loom and the dyeing pit and the market stall to take down his bow or dagger, war was a hard and ungrateful service where reward and plunder were dealt out with a niggardly hand; and men conceived a deep hatred of strife and disorder of which they had measured all the misery. When the common people dreamed of a brighter future, their simple hope was that every maker of deadly weapons should die by his own tools; for in that better time—

> "Battles shall never eft (again) be, ne man bear edge-tool,
> And if any man (smithy) it, be smit therewith to death."

### § 2. *Mediæval Police*

Nor even in times of peace might the burghers lay aside their arms, for trouble was never far from their streets. Every inhabitant was bound to have his dagger or knife or Irish "skene," in case he was called out to the king's muster or to aid in keeping the king's peace. But daggers which were effective in keeping the peace were equally effective in breaking it, and the town records are full of tales of brawls and riots, of frays begun by "railing with words out of reason," or by "plucking a man down by the hair of his head," but which always ended in the appearance of a short dagger, "and so drew blood upon each other." For the safety of the community — a safety which was the recognized charge of every member of these simple democratic states — each householder was bound to take his turn in keeping nightly watch and ward in the streets. It is true, indeed, that reluctant citizens constantly by one excuse or another sought to escape a painful and thankless duty: whether it was whole groups of inhabitants sheltering themselves behind legal pretexts, or sturdy rebels breathing out frank defiance of the town authorities.

Thus in Aylesbury, according to the constable's report, one "Reygg kept a house all the year till the watch time came. And when he was summoned to the watch then came Edward Chalkyll 'fasesying' and said he should not watch for no man and thus bare him up, and that caused the other be the bolder for to bar the king's watch. . . . He saith and threateneth us with his master," add the constables, "and thus we be over 'crakyd' that we dare not go, for when they be 'mayten' they be the bolder." John Bossey "said the same wise that he would not watch for us," and three others "lacked each of them a night." But in such cases the mayor's authority was firmly upheld by the whole community, every burgher knowing well that if any inhabitant shirked his duty a double burden fell upon the shoulder of his neighbor.

### § 3. *Preservation of Municipal Boundaries*

All inhabitants of a borough were also deeply interested in the preservation of the boundaries which marked the extent of their dominions, the "liberties" within which they could enforce their own law, regulate trade, and raise taxes. Century after century the defence of the frontier remained one of the urgent questions of own politics, insistent, perpetually recurring, now with craft and

treachery, now with violence and heated passion breaking into sudden flame. Every year the mayor and corporation made a perambulation of the bounds and inspected the landmarks; the common treasure was readily poured out if lawsuits and bribes were needed to ascertain and preserve the town's rights; and if law failed, the burghers fell back without hesitation on personal force.

In Canterbury the town and the convent of Christ Church were at open war about this question as about many others. The monks remained unconvinced even though the mayor and council of thirty-six periodically "walked the bounds," giving copper coins at the various turning points to "divers children," that they might remember the limits of the franchise, while they themselves were refreshed after their trouble by a "potation" in a field near Fordwich. At one time the quarrel as to the frontier raged round a gigantic ash tree, — the old landmark where the liberties of the city touched those of Fordwich, — which was in 1499 treacherously cut down by the partisans of Christ Church; the Canterbury men with the usual feastings and a solemn libation of wine set up a new boundary stone. At another time the dispute shifted to where at the west gate of the town the river wound with uncertain and changing course that left frontiers vague and undefined. A low marshy ground called the "Rosiers" was claimed by the mayor as under his jurisdiction, while the prior asserted that it was within the county of Kent, and for thirty years the question was fought out in the law courts. On July 16, 1500, the mayor definitely asserted his pretensions by gathering two hundred followers arrayed in manner of war to march out to the Rosiers. There certain monks and servants of the prior were taking the air: one protested he had been "late afore sore sick and was walking in the field for his recreation"; another had a sparrow-hawk on his fist, and the servants declared they were but peaceful haymakers; but all had apparently gone out ready for every emergency, for at the appearance of the enemy bows and arrows, daggers, bills, and brigandiers were produced from under the monks' frocks and the smocks of the haymakers. In the battle that followed the monks were beaten, and the citizens cut down willows and stocked up the dike made in the river by the convent, and boldly proceeded the next day to other outrages. The matter was brought to judgment and a verdict given against the mayor for riot — a verdict which that official, however, lightly disregarded. It was in vain that the prior, wealthy and powerful as he was, and accustomed to

so great influence at court, appealed to the Star Chamber to have the penalty enforced, for no further steps were taken by the government. It probably judged wisely, since in such a matter the temper of the citizens ran high; and the rectification of frontiers was resented as stoutly as a new delimitation of kingdoms and empires to-day.

### § 4. *Municipal Lands*

Resolution in the defence of their territory was no doubt quickened by the sense which every burgess shared of common property in the borough. The value of woodland and field and meadow which made up the "common lands" was well understood by the freeman who sent out his sheep or cows to their allotted pasture, or who opened the door of his yard in the early morning when the common herd went round the streets to collect the swine and drive them out on the moor till evening. The men of Romney did not count grudgingly their constant labor and cost in measuring and levelling and draining the swamps belonging to their town and protecting them from the encroachments of "the men of the marsh" beyond, for the sake of winning grazing lands for their sheep, and of securing a "cow-pull" of swans or cygnets for their lord the archbishop when it was desirable "to have his friendship."

In poor struggling boroughs like Preston, in large and wealthy communities like Nottingham, in manufacturing towns like Worcester with its busy population of weavers, in rich capitals like York, in trading ports like Southampton where the burghers had almost forgotten the free traditions of popular government, the inhabitants never relaxed their vigilance as to the protection of their common property. They assembled year after year to make sure that there had been no diminishing of their rights or alienation of their land, or that in the periodical allotments the best fields and closes had not fallen to the share of aldermen and councillors; and by elaborate constitutional checks, or if these failed, by "riotous assembly and insurrection," they denounced every attempt at encroachment on marsh or pasture.

### § 5. *Municipal Property and Finance*

So also in the case of other property which corporations held for the good of the community — fisheries, warrens, salt-pits, pastures reclaimed from the sea, plots of ground saved in the dry

bed of a river, building sites and all waste places within the town walls, warehouses and shops and tenements, inns and mills, the grassy slopes of the city ditch which were let for grazing, the towers of the city walls leased for dwelling houses or store-rooms, any property bequeathed to the community for maintaining the poor or repairing the walls or paying tolls and taxes — all this corporate wealth which lightened the burdens of the taxpayer was a matter of concern to every citizen. The people were themselves joint guardians of the town treasure. Representatives chosen by the burghers kept one or two of the keys of the common chest, which could only be opened therefore with their consent.

Year after year mayor or treasurers were by the town ordinances required to present their accounts before the assembly of all the people "in our whole community, by the tolling of the common bell calling them together for that intent" — an assembly that perhaps gathered in the parish church in which seats were set up for the occasion at the public expense. There the people heard the lists of fines levied in the courts; of tolls in the market, or taxes taken at the gates or in the harbor; of the "maltodes," or sums paid on commodities for sale; of the "scot" levied on the property of individuals; of the "lyvelode" or livelihood, an income tax on rates or profits earned. They learned what means the corporation had taken of increasing the common revenue; whether it had ordered a "church-ale," or an exhibition of dancing girls, or a play of *Robin Hood;* what poor relief had been given in the past year; what public loans with judicious usury of over ten per cent it had allowed, as when in Lydd "the jurats one year lent Thomas Dygon five marks from the common purse when going to the North Sea, and he repaid the same well and trustily and paid an increase thereon seven shillings"; or they were told whether the town council proposed to do a little trading for the good of the community; and how a "common barge" had been built with timber bought at one town, cables and anchors at another, pitch and canvas at a third; and how, when the ship was finished, the corporation paid for a modest supply of "bread and ale the day the mast was set in the barge," before it was sent out to fish for herrings or to speculate in a cargo of salt or wine, for the profit of the public treasury.

Lessons in common financial responsibility had been early forced on the burghers everywhere by the legal doctrine that the whole body might be held responsible for the debt of one of its members, while each member on his part was answerable for the

faults of his fellows, whether singly or collectively. Thus when Norwich failed in paying debts due to the king in 1286, the sheriff of Norfolk was ordered to enter the liberty and distrain twelve of the richer and more discreet persons of the community; and when the rent of Southampton was in arrears, one of its burgesses was thrown into the Fleet in London. Under such a system as this the ordinary interest of citizens in questions of taxation and expenditure was greatly quickened. The municipalities were stern creditors. If a man did not pay his rent for the king's ferm, the doors and windows of his house were taken off, every one in it turned out, and the house stood empty for a year and a day, or even longer, before the doors might be redeemed in full court, or before it passed to the next heir. But it was probably rather owing to the happy circumstances of the English towns than to the vigilance of the burghers that there is no case in England of a disaster which was but too common in France — the disaster of a borough falling into bankruptcy, and through bankruptcy into servitude and political ruin.

### § 6. *Municipal Improvements*

In the town communities of the Middle Ages all public works were carried out by what was in fact forced labor of the whole commonalty. If the boroughs suffered little from government interference, neither could they look for help in the way of state aid or state loans; and as the burgher's purse in early days was generally empty, he had to give of the work of his hands for the common good. In Nottingham, "booners" — that is, the burgesses themselves or substitutes whom they provided to take their place — repaired the highways and kept the streets in order. The great trench dug at Bristol to alter the course of the Frome was made "by the manœuvre of all the commonalty as well of Redcliffe ward as of the town of Bristol." When Hythe in 1412 sent for a Dutch engineer to make a new harbor, all the inhabitants were called out in turn to help at the "Delveys" or diggings. Sundays and week days alike the townsmen had to work, dining off bread and ale provided by the corporation for the diggers, and if they failed to appear they were fined fourpence a day. In the same way Sandwich engaged a Hollander to superintend the making of a new dike for the harbor; the mayor was ordered to find three workmen to labor at it, every jurat two, and each member of the common council one man; while all other townsmen had to give labor or find substitutes according to their ability. The jurats

were made overseers, and were responsible for the carrying out of the work, and so successfully was the whole matter managed that in 1512 the Sandwich haven was able to give shelter to five hundred or six hundred hoys.

### § 7. *Appeals to Public Charity*

Forced labor such as this could, of course, only be applied to works where skilled artificers were not necessary; but occasions soon multiplied when the town mob had to be replaced by trained laborers, and we already see traces of a transitional system in the making of the Hythe harbor, where the municipality had to engage hired labor for such work as could not be done by the burgesses. But undertakings for which scientific skill was needed sorely taxed local resources, and the burghers were driven to make anxious appeals to public charity. In 1447, when Bridport wanted to improve its harbor, collectors were sent all over the country to beg for money; indulgences of forty or a hundred days were promised to subscribers by archbishops and bishops; and a copy of the paper carried by one of the collectors gives the sum of the masses said for them in the year as amounting to nearly four thousand: "the sum of all other good prayers no man knoweth save only God alone." The building and repairing of bridges as being also work that demanded science and skilled labor involved serious cost. When the king had allowed the bridge at Nottingham to fall into the river, he generously transferred its ownership and the duty of setting it up again to the townspeople, who appointed wardens and kept elaborate accounts and bore grievous anxiety, till finding its charges worse than all their ordinary town expenses they at last fell to begging also. So also the mayor of Exeter prayed for help in the matter of the bridge there, which had been built by a wealthy mayor and was "of the length or nigh by, and of the same mason work as London Bridge, housing upon except; the which bridge openly is known the greatest costly work and most of alms-deeds to help it in all the west part of England." Such instances reveal to us the persistent difficulties that beset a world where primitive methods utterly failed to meet new exigencies, and where the demand for technical quality in work was beginning to lead to new organizations of labor. Meanwhile the burghers had to fight their own way with no hope of grants in aid from the state, and little to depend on save the personal effort of the whole commonalty.





### § 8. *Mediæval Municipal Gaieties*

The townspeople all took their part not only in the serious and responsible duties of town life, but apparently in an incessant round of gaieties as well. All the commons shared in supporting the minstrels and players of the borough. The "waits" (so called from the French word *guet*) were originally and still partly remained watchmen of the town; but it was in their character of minstrels, "who go every morning about the town piping," that they were paid by pence collected by the wardmen from every house. Every town, moreover, had its particular play, which was acted in the Town Hall, or the churchyard, before the mayor and his brethren sitting in state, while the whole town kept holiday. In 1411 there was a great play, *From the Beginning of the World*, at the Skinner's Well in London, "that lasted seven days continually, and there were the most part of the lords and gentles of England." At Canterbury the chief play was naturally *The Martyrdom of St. Thomas*. The cost is carefully entered in the municipal account books — charges for carts and wheels, flooring, hundreds of nails, a mitre, two bags of leather containing blood which was made to spout out at the murder, linen cloth for St. Thomas' clothes, tin foil and gold foil for the armor, packthread and glue, coal to melt the glue, alb and amys, knights' armor, the hire of a sword, the painting of St. Thomas' head, an angel which cost *22d.* and flapped his wings as he turned every way on a hidden wynch with wheels oiled with soap. When all was over the properties of the pageant were put away in the barn at St. Sepulchre's Nunnery and kept safely till the next year at a charge of *16d.* The Canterbury players also acted in the *Three Kings of Cologne* at the Town Hall, where the kings, attended by their henchmen, appeared decorated with strips of silver and gold paper and wearing monks' frocks. The three "beasts" for the Magi were made out of twelve ells of canvas distended with hoops and laths, and "painted after nature"; and there was a castle of painted canvas which cost *3s. 4d.* The artist and his helpers worked for six days and nights at these preparations and charged three shillings for their labor, food, fire, and candle.

Minstrels and harpers and pipers and singers and play-actors, who stayed at home through the dark winter days "from the feast of All Saints to the feast of the Purification," to make music and diversion for their fellow-citizens, started off on their travels when the fine weather came, and journeyed from town to town giving

their performances, and rewarded at the public expense with a gift of 6*s.* 8*d.* or 3*s.* 4*d.*, and with dinner and wine "for the honor of the town." It was an easy life —

> "Some mirth to make as minstrels conneth (know),
> That will neither swynke (toil) nor sweat, but swear great oaths,
> And find up foul fantasies and fools them maken,
> And have wit at will to work if they would."

Entries in the town accounts of Lydd give some idea of the constant visits of these wandering troops, and of the charges which they made upon the town treasure. Players from Romney came times without number, others from Rukinge, Wytesham, Herne, Hamme, Appledore, Stone, Folkestone, Rye; and besides these came the minstrels of the great lords, the king, the Duke of Somerset, the Duke of Buckingham, Lord De Bourchier, Lord Fiennes, the Earl of Warwick, the Duke of York, Lord Arundel, Lord Exeter, Lord Shrewsbury, the Earl of Pembroke, Lord Dacres, etc., all of whom doubtless the town dared not refuse to entertain, but "for love of their lords lythen (listen to) them at feasts." Besides this Lydd had its own special plays, *The May* and *The Interlude of our Lord's Passion*, and the whole town would gather on a Sunday to hear the actors, while watchmen were paid to keep guard on the shore against a surprise of the French. Its players seem to have set the fashion in the neighborhood; the Romney Corporation "chose wardens to have the play of *Christ's Passion*, as from olden time they were wont to have it," and paid the expenses of a man to go to Lydd "to see the original of our play there," besides giving the Lydd players a reward of 20*s.* for their performance.

Other wanderers, too, knocked at the gates of Lydd — "the man with the dromedary," "a bear-ward," or the keeper of the king's lions travelling with his menagerie and demanding a sheep to be given to the lions; archers and wrestlers from neighboring towns whom jurats and commons gathered to see, and supplied with wrestling collars and food for themselves and their horses, as well as a "reward" at the public expense. Besides bull-baiting, Lydd, doubtless like other towns, had its occasional "bear-baiting." There were the Christmas games and mumming, and the yearly visit of the "Boy Bishop" of St. Nicholas, who came from Romney to hold his feast at Lydd. And there was the universal festival of the "watch" on St. John's eve, when Lydd paid out of its common chest for the candles kept burning all night





in the Common House, and for the feast, not a trifling expense, if we may judge by the case of Bristol, where the crafts who took part in the watch divided among them ninety-four gallons of wine.

This festival was observed everywhere, but other local feasts were arranged according to local traditions. In Canterbury every mayor was bound "to keep the watch" on the Eve of the Translation of St. Thomas. "And in the aforesaid watch the sheriff to ride in harness with a henchman after him honestly emparelled for the honor of the same city. And the mayor to ride at his pleasure, and if the mayor's pleasure be to ride in harness, the aldermen to ride in like manner, and if he ride in his scarlet gown, the aldermen to ride after the same watch in scarlet and crimson gowns." The city was to be lighted by the mayor finding "two cressets, or six torches, or more at his pleasure," every alderman finding two cressets, and each of the common council with every constable and town clerk one cresset. In Chester the great day for merry-making was Shrove Tuesday, when the drapers, saddlers, shoemakers, and many others met at the cross on the Roodeye, and there in the presence of the mayor the shoemakers gave to the drapers a football of leather "to play at from thence to the Common Hall." The saddlers at the same time gave "every master of them a painted ball of wood with flowers and arms upon the point of a spear, being goodly arrayed upon horseback accordingly." The whole town joined in the sports, and every one married within the year gave some contribution toward their funds.

To these festivities we must add the yearly pageants of the gilds, whether of the great societies like the Gild of St. George of Norwich, whose alderman in scarlet robe followed by the four hundred members with their distinguishing red hoods, marched after the sword of wood with a dragon's head for the handle which had been presented to them by Henry the Fifth, or of the Corpus Christi Gild, which evidently played a political part in the life of every great town. In York it is said to have had in the sixteenth century nearly fifteen thousand members, and at its great pageant the mayor and town council "and other worshipful persons" joined in a common feast, and sent wine and fruits at the public expense to great nobles and ladies in the city, till perhaps supplies ran out and the town was "drunken dry." The craft gilds also, whether voluntarily or by order of the corporation, had their pageants acting the same play year after year.

It has been commonly supposed that the English people had

in the later Middle Ages a passion for pageantry and display which was one of the strongest forces in maintaining their gild organization. But towards the end of the fifteenth century at least it becomes less and less clear that the free will of the craftsmen had much to say as to the maintenance of these public gaieties, or that they felt any enthusiasm for amusements which yearly grew more expensive and burdensome. There were places where the crafts, whether through poverty or economy, neglected to spend a due proportion of their earnings on the public festivals, and in one town after another as popular effort declined the authorities began to urge the people on to the better fulfilment of their duties. In 1490 a complaint was made in Canterbury that the *Corpus Christi Play*, the *City Watch on St. Thomas' Eve*, and the *Pageant of St. Thomas* had fallen into decay. Some mayors, indeed, "in their year have full honorably kept the said watch"; but others had neglected it, and "all manner of harness within the city is decayed and rusted for lack of the yearly watch." It was therefore decreed that every mayor should henceforth "keep the watch," and that the crafts who apparently hoped to escape from the heavy charges of these plays by declaring themselves too poor to be formed into a corporate body, should forthwith be grouped together into a sort of confederation or give up their bodies for punishment.

In the same way when the tailors of Plymouth were incorporated in 1496, they had to bind themselves to provide a pageant every year on Corpus Christi Day for the benefit of the Corpus Christi Gild, and so on in many other towns. Occasionally, indeed, the corporation took a different and more merciful line; for the mayor and sheriffs of Norwich petitioned the lords and commons to pass an act or order to prevent players of interludes from coming into the city, as they took so large a share of the earnings of the poor operatives as to cause great want to their families and a heavy charge to the city, and Bridgenorth got an order from Elizabeth that the town might no longer pay players or bearwards; whoever wanted to see such things, must see them "upon their own costs and charges."

On the whole, it is evident that long before the Reformation, and even when as yet no Puritan principles had been imported into the matter, the gaiety of the towns was already sobered by the pressure of business and the increase of the class of depressed workers. It was not before the fanaticism of religion, but before the coming in of new forms of poverty and of bondage, that the old games and

pageants lost their lustre and faded out of existence, save where a mockery of life was preserved to them by compulsion of the town authorities. And the town authorities were probably acting under pressure of the publicans and licensed victuallers. Cooks and brewers and hostellers were naturally deeply interested in the preservation of the good old customs, and it was in some cases, certainly this class, the most powerful in a mediæval borough, who raised the protest against the indifference and neglect of the townspeople for public processions and merry-making, because "thereby the victuallers lose their money," and who insisted on the revival of these festivals for the encouragement of trade. Probably where the crafts were strong and the votes of the working people carried the day, the decision turned the other way.

### § 9. *The Church as a Centre of Town Life*

All the multitudinous activities and accidents of this common life were summed up for the people in the parish church that stood in their market-place, close to the Common House or Gild Hall. This was the fortress of the borough against its enemies — its place of safety where the treasure of the commons was stored in dangerous times, the arms in the steeple, the wealth of corn or wool or precious goods in the church itself, guarded by a sentence of excommunication against all who should violate so sacred a protection. Its shrines were hung with the strange new things which English sailors had begun to bring across the great seas — with "horns of unicorns," ostrich eggs, or walrus tusks, or the rib of a whale given by Sebastian Cabot. From the church tower the bell rang out which called the people to arm for the common defence or summoned a general assembly or proclaimed the opening of the market. Burghers had their seats in the church apportioned to them by the corporation in the same rank and order as the stalls which it had already assigned to them in the market-place.

The city officers and their wives sat in the chief places of honor; next to them came tradesmen according to their degree with their families honorably "y-parroked (parked) in pews," where Wrath sat among the proud ladies who quarrelled as to which should first receive the holy bread; while "apprentices and servants shall sit or stand in the alleys." There on Sundays and feast-days the people came to hear any news of importance to the community, whether it was a list of strayed sheep, or a proclamation

by the bailiff of the penalties which had been decreed in the manor court against offenders. The church was their common hall, where the commonalty met for all kinds of business, to audit the town accounts, to divide the common lands, to make grants of property, to hire soldiers, or to elect a mayor. There the council met on Sundays or festivals, as might best suit their convenience; so that we even hear of a payment made by the priest to the corporation to induce them not to hold their assemblies in the chancel while high mass was being performed. It was the natural place for justices to sit and hear cases of assault and theft, or it might serve as a hall where difficult legal questions could be argued out by lawyers.

In the middle of the fifteenth century, when the bishop and the mayor of Exeter were in the height of a fierce contest about the government of the town, they met for discussion in the cathedral. "When my lord had said his prayers at the high altar he went apart to the side altar by himself and called to him apart the mayor and no more, and there communed together a great while." And on this common ground the dean and chapter on the one side and the mayor and town council on the other, attended by their respective lawyers, fought out the questions of law on which the case turned. In fair time the throng of traders expected to be allowed to overflow from the High Street into the cathedral precincts, and were "ever wont and used . . . to lay open, buy, and sell divers merchandises in the said church and cemetery and special in the king's highway there as at Wells, Salisbury, and other places more, as dishes, bowls, and other things like, and in the said church ornaments for the same and other jewels convenient thereto." In a draft presentation to a London vicarage of 1427 there is a written memorandum with an order from the king that no fairs or markets shall be held in sanctuaries, "for the honor of Holy Church." Edward the First had indeed forbidden such fairs in his statute of merchants; but such an order was little in harmony with the habits and customs of the age; and if there was an occasional stirring of conscience in the matter, it was not till the time of Laud that the public attained to a conviction, or acquiesced in an authoritative assertion that the Church was desecrated by the transaction in it of common business.

In the Middle Ages, however, the townspeople were connected with their parish Church after a fashion which has long been unknown among us. They were frequently the lay rectors; they





appointed the wardens and churchwardens; they had control of the funds and the administration of lands left for maintaining its services and fabric; sometimes they laid claim to the fees paid for masses. The popular interest might even extend to the criticism and discipline of the rector, so that in Bridport an inquiry of the bishop as to whether his chaplain, "a foreigner from Brittany," was "drunk every day" was held in presence of "a copious multitude of the parishioners," and twelve townsmen acted as witnesses. If a religious gild had become identified with the corporation, the town body and the Church were united by a yet closer tie. The corporation of Plymouth, which on its other side was the Gild of Our Lady and St. George, issued its instructions even as to the use of vestments in St. Andrews, ruling when "the best copes and vestments" should be used at funerals, and how "the second blue copes" only might be displayed at the burial of any man who died without leaving to the Church an offering of twenty shillings.

The people on their side were taxed, and heavily taxed, for the various expenses of the Church. Sergeants sent by the town Council collected under severe penalties the dues for the blessed bread and "trendilles" of wax or "light-silver" for the lights burned beside dead bodies laid in the church, and the town treasury paid for "coals for the new fire on Easter Eve." If a church had to be repaired or rebuilt, the pressure of spiritual hopes or fears, the habit of public duty, the boastfulness of local pride, all the influences that might stimulate the common effort were raised to their highest efficiency by the watchful care of the corporation. All necessary orders were sent out by the mayor, who with the town council determined the share which the inhabitants were to take in the work; and in small and destitute parishes where the principle of self-help and independence was quite as fully recognized as it was in bigger and richer towns, real sacrifices were demanded. Men gave their money or their labor or the work of their horse and cart, or they offered a sheep or fowls, or perhaps rings and personal ornaments.

In the pride of their growing municipal life the poorest boroughs built new towers and hung new chimes worthy of the latest popular ideals. The inhabitants of Totnes were so poor that in 1449 there were only three people in the town who paid as much as twenty pence for the tax of half-tenths and fifteenths for the king. But since Totnes had four new bells which had been anointed and consecrated in 1442, it decided that the old wooden belfry of the

parish church should be replaced by a new stone tower. A master mason was appointed in 1448, and "supervisors" were chosen to visit the bell towers of all the country round and to make that at Totnes "according to the best model." The proctors of the church provided shovels and pick-axes, and the parishioners were called out to dig stones from the quarry; every one who had a horse was to help in carrying the stones, "but without coercion;" while "those who have no horses of their own are to work with the horses of other persons, but at their own cost."

Last of all an ordinance was made that the mayor, vicar, and proctors of the church should go round to each parishioner and see how much he would give to the collection on Sundays for the bell tower, and those who contributed nothing were to have their names entered on a roll and sent to the archdeacon's court. When St. Andrews at Plymouth was enlarged, the town authorities decided that the money should be collected by means of a yearly "church-ale." Taverns were closed by order of the council on a certain day, and every ward of the town made for itself a "hale" or booth in the cemetery of the parish church. All inhabitants of the wards were commanded to come with as many friends and acquaintances as possible "for the increasing of the said ale," and to bring with them "except bread and drink such victual as they like best"; but they must buy at the "hale," "bread and ale as it cometh thereto for their dinners and suppers the same day." After ten years of these picnics in the churchyard the new aisle of St. Andrews was finished at a cost of £44 14*s.* 6*d.*

### § 10. *Unity of Interests and Public Spirit in the Mediæval Town*

In the midst of this busy life — a life where the citizens themselves watched over their boundaries, defended their territory, kept peace in their borders, took charge of the common property, governed the spending of the town treasure, labored with their own hands at all public works, ordered their own amusements — the mediæval burgher had his training. The claims of the commonwealth were never allowed to slip from his remembrance. As all the affairs of the town were matters of public responsibility, so all the incidents of its life were made matters of public knowledge. The ancient "common horn" or the "common bell" announced the opening of the market, or the holding of the mayor's court, or called the townspeople together in time of danger. Criers went about the streets to proclaim the ordinances of the community, and





to remind the citizens of their duties. From the church stile or in the market-place they summoned men to the king's muster, or called them to their place in the town's ship or barge; or if danger from an enemy threatened, warned the citizens "to have harness carried to the proper places," or "to have cattle or hogs out of the fields." They exhorted the people "to leave dice-playing," "to cease ball-playing, and to take to bows"; to shut the shops at service time; "to have water at men's doors" for fear of fire. The crier "called" any proclamation of the king in the public places of the town; he declared deeds of pardon granted to any criminal or proclaimed that some poor wretch who had taken sanctuary in the church had abjured the kingdom and was to be allowed to depart safely through the streets. Perhaps the "cry" was made that a prisoner had been thrown into the town jail on suspicion, and accusers were called to appear if they had any charge to bring against him; or it was announced that the will of a deceased townsman was about to be proved in the courthouse, if there were any who desired to raise objections; or there was proclamation that a burgher had offended against the laws of the community and was degraded from the freedom of the town, or perhaps banished forever from its territory. At other times players and minstrels would pass through the market-place and streets "crying the banns" of their plays. The merchant, the apprentice, the journeyman, the shopkeeper, gathered in the same crowd to hear the crier who recorded every incident in the town life or brought tidings of coming change. News was open, public, without distinction of persons.

Where the claims of local life were so exacting and so overpowering we can scarcely wonder if the burgher took little thought for matters that lay beyond his "parish." But within the narrow limits of the town dominions his experience was rich and varied. While townsmen were forced at every turn to discover and justify the limits of their privileges, or while controversies raged among them as to how the government of the community should be carried on, there was no lack of political teaching; and all questions "touching the great commonalty of the city" for whose liberties they had fought and whose constitution they had shaped, stirred loyal citizens to a genuine patriotism. Traders too, intent on the development of their business, were deeply concerned in all the questions that affected commerce, the securing of communications, the opening of new roads for trade, or the organization of labor. In such matters activity could never sleep; for the towns

anticipated modern nations in the faith that the advantage of one community must be the detriment of another, and competition and commercial jealousy ran high. Never perhaps in English history was local feeling so strong. Public virtue was summed up in an ardent municipal zeal, as lively among the "Imperial Co-citizens" of New Sarum as among the "Great Clothing" of bigger boroughs. In those days, indeed, busy provincials but dimly conscious of national policy found in the confusion of court politics and the distraction of its intrigues, or in the feuds of a divided and bewildered administration, no true call to national service and no popular leader to quicken their sympathies.

Civil wars which swept over the country at the bidding of a factious group of nobles or of a vain and unscrupulous kingmaker left, and justly left, the towns supremely indifferent to any question save that of how to make the best terms for themselves from the winning side, or to use the disasters of warring lords so as to extend their own privileges. Meanwhile in the intense effort called out by the new industrial and commercial conditions and the reorganization of social life which they demanded, it was inevitable that there should grow up in the boroughs the temper of men absorbed in a critical struggle for ends which however important were still personal, local, limited, purely material — a temper inspired by private interest and with its essential narrowness untouched by the finer conceptions through which a great patriotism is nourished. Such a temper, if it brought at first great rewards, brought its own penalties at last, when the towns, self-dependent, unused to confederation for public purposes, destitute of the generous spirit of national regard, and by their ignorance and narrow outlook left helpless in presence of the revolutions that were to usher in the modern world, saw the government of their trade and the ordering of their constitutions taken from them, and their councils degraded by the later royal despotism into the instruments and support of tyranny.



## CHAPTER IV

### THE CHURCH IN THE MIDDLE AGES

No student of mediæval history can neglect the Church both as an institutional expression of the religious life of the age and as a body of men occupying a position of great power by means of their possessions, their learning, and their spiritual authority. The hierarchy of the Church in England, its cardinal doctrines, its claims over the moral and secular life of man, its contests with the kings for power, its relations with the See of Rome — these and many more problems of fundamental importance confront the student who would understand the forces at work in mediæval society. In the language of Professor Maitland, the Church of Christendom "was a wonderful system. The whole of Western Europe was subject to the jurisdiction of one tribunal of last resort, the Roman curia. Appeals were encouraged by all manner of means, appeals at almost every stage of almost every proceeding. But the pope was far more than the president of a court of appeal. Very frequently the courts Christian which did justice in England were acting under his supervision and carrying out his written instructions. A very large part and by far the most permanently important part of the ecclesiastical litigation that went on in the country came before English prelates who were sitting not as judges ordinary, but as mere delegates of the pope, commissioned to hear and determine this or that particular case. Bracton, indeed, treats the pope as the ordinary judge of every Englishman in spiritual things, and the only ordinary judge whose powers are unlimited." For the various features of the English mediæval Church as an institution, every student must turn to the weighty pages of Dr. Stubbs, whose profound

historical knowledge and ecclesiastical training peculiarly fitted him for the task of writing on this complicated subject.

## § 1. *The Spirituality of England as an Organization within the State*[1]

In approaching the history of the mediæval church, we may regard the spirituality of England, the clergy or clerical estate, as a body completely organized, with a minutely constituted and regulated hierarchy, possessing the right of legislating for itself and taxing itself, having its recognized assemblies, judicature, and executive, and, although not as a legal corporation holding common property, yet composed of a great number of persons each of whom possesses corporate property by a title which is either conferred by ecclesiastical authority, or is not to be acquired without ecclesiastical assent. The spirituality is by itself an estate of the realm; its leading members, the bishops and certain abbots, are likewise members of the estate of baronage; the inferior clergy, if they possess lay property or temporal endowments, are likewise members of the estate of the commons.

The property which is held by individuals as officers and ministers of the spirituality is either temporal property — that is, lands held by ordinary legal services, or spiritual property — that is, tithes and oblations. As an estate of the realm the spirituality recognizes the headship of the king; as a member of the Church Catholic it recognizes, according to the mediæval idea, the headship of the pope. Its own chief ministers, the bishops under their two metropolitans and under the primacy of the Church of Canterbury, stand in an immediate relation to both these powers, and the inferior clergy have through the bishops a mediate relation, while as subjects and as Catholic Christians they have also an immediate relation to both king and pope. They recognize the king as supreme in matters temporal, and the pope as supreme in matters spiritual; but there are questions as to the exact limits between the spiritual and the temporal, and most important questions touching the precise relations between the crown and the papacy. In mediæval theory the king is a spiritual son of the pope; and the pope may be the king's superior in things spiritual only, or in things spiritual and temporal alike.

[1] Stubbs, *Constitutional History of England*, Vol. III, chap. xix. By permission of the Delegates of the Clarendon Press, Oxford.





### § 2. *Temporal Superiority of the Papacy*

The temporal superiority of the papacy may be held to depend upon two principles: the first is embodied in the general proposition asserted by Gregory VII and his successors that the pope is supreme over temporal sovereigns; the spiritual power is by its very nature superior to the temporal, and of that spiritual power the pope is on earth the supreme depository. This proposition may be accepted or denied, but it implies a rule equally applicable to all kingdoms. The second principle involves the claim to special superiority over a particular kingdom, such as was at different times made by the popes in reference to England, Scotland, Ireland, Naples, and the empire itself, and turns upon the special circumstances of the countries so claimed. These two principles are in English history of unequal importance: the first, resting upon a dogmatic foundation has, so far as it is recognized at all, a perpetual and semi-religious force; the latter, resting upon legal assumptions and historical acts, has more momentary prominence, but less real significance.

The claim of the pope to receive homage from William the Conqueror, on whatever it was based, was rejected by the king, and both he and William Rufus maintained their right to determine which of the two contending popes was entitled to the obedience of the English Church. Henry II, when he received Ireland as a gift from Adrian IV, never intended to admit that the papal power over all islands inferred from the donation of Constantine could be understood so as to bring England under the direct authority of Rome; nor when, after Becket's murder, he declared his adhesion to the pope, did he contemplate more than a spiritual or religious relation. John's surrender and subsequent homage first created the shadow of a feudal relation, which was respected by Henry III, but repudiated by the Parliaments of Edward I and Edward III, and passed away, leaving scarcely a trace under the later kings. . . .

### § 3. *Election of Bishops*

Whatever was the precise nature of the papal supremacy, the highest dignity in the hierarchy of the national Church was understood to belong to the Church of Canterbury, of which the archbishop was the head and minister; he was *alterius orbis papa;*

he was likewise, and in consequence, the first constitutional adviser of the crown. The Archbishop of York and the bishops shared, in a somewhat lower degree, both his spiritual and his temporal authority; like him they had large estates which they held of the king, seats in the national council, preëminence in the national synod, and places in the general councils of the Church. The right of appointing the bishops and of regulating their powers was thus one of the first points upon which the national Church, the crown, and the papacy were likely to come into collision.

The coöperation of clergy and laity in the election of bishops before the Conquest has been already illustrated. The struggle between Henry I and Anselm on the question of investiture terminated in a compromise; the king gave up his claim to invest with staff and ring; the archbishop undertook that no bishop elect should be disqualified for consecration by the fact that he had done homage to the king. Although Henry retained the power of nominating to the vacant sees, the compact resulted in a shadowy recognition of the right of canonical election claimed by the chapters of the cathedrals, and exercised occasionally under the royal dictation; to the metropolitan, of course, belonged consecration and the bestowal of the spiritualities; temporal property and authority were received from the royal hands. Stephen at his accession more distinctly recognized the rule of canonical substitution, and in his reign the clergy contended with some success for their rights.

Henry II and Richard observed the form of election under strict supervision, and John, shortly before he granted the great charter, issued as a bribe to the bishops a shorter charter confirming the right of free election, subject to the royal license and approval, neither of which was to be withheld without just cause. This charter of John may be regarded as the fullest and final recognition of the canonical right which had been maintained as the common law of the Church ever since the Conquest; which had been ostensibly respected since the reign of Henry I; and which the crown, however often it evaded it, did not henceforth attempt to override.

The earlier practice, recorded in the Constitutions of Clarendon, according to which the election was made in the *curia regis*, in a national council, or in the royal chapel before the justiciar, a relic perhaps of the custom of nominating the prelates in the Witenagemot, was superseded by this enactment: the election took place in the chapter-house of the cathedral, and the king's





wishes were signified by letter or message, not as before by direct dictation. When the elected prelate had obtained the royal assent to his promotion, the election was examined and confirmed by the metropolitan; and the ceremony of consecration completed the spiritual character of the bishop. On his confirmation, the elected prelate received the spiritualities of his see, the right of ecclesiastical jurisdiction in his diocese, which during the vacancy had been in the hands of the archbishop or of the chapter; and at his consecration he made a profession of obedience to the archbishop and the metropolitan Church. From the crown, before or after consecration, he received the temporalities of his see, and thereupon made to the king a promise of fealty answering to the homage and fealty of a temporal lord.

### § 4. *The Pope and Ecclesiastical Appointments*

It was not until the thirteenth century that the popes began to interfere directly in the appointment to the suffragan sees. Over the metropolitans they had long before attempted to exercise a controlling influence, in two ways: by the gift of the pall and by the institution of legations. The pall was a sort of collar of white wool, with pendent stripes before and behind, embroidered with four purple crosses. The lambs from whose wool it was made were annually presented by the nuns of St. Agnes, blessed by the pope, and kept under the care of apostolic subdeacons; and the pall, when it was ready for use, was again blessed at the tomb of St. Peter and left there all night. It was presented to the newly appointed metropolitans at first as a compliment, but it soon began to be regarded as an emblem of metropolitan power, and by and by to be accepted as the vehicle by which metropolitan power was conveyed.

The bestowal of the pall was in its origin Byzantine, the right to wear some such portion of the imperial dress having been bestowed by the emperor on his patriarchs: in the newer form it had become a regular institution before the foundation of the English Church; St. Gregory sent a pall to Augustine, and so important was the matter that, even after the breach with Rome, Archbishop Holdegate of York in 1545 went through the form of receiving one from Cranmer. Until he received the pall the archbishop did not, except under very peculiar circumstances, venture to consecrate bishops. On the occasion of its reception he had to swear obedience to the pope in a form which gradually became

more stringent; in early times he undertook a journey to Rome for the purpose; but after the time of Lanfranc the pall was generally brought by special envoys from the apostolic see, and a great ceremony took place on the occasion of the investiture. This transaction formed a very close link between the archbishop and the pope, and, although the pall was never refused to a duly qualified candidate, the claim of a discretion to give or refuse in fact attributed to the pope a power of veto on the elections made by national churches and sovereigns. . . .

By the statute of provisors, in 1351, it was enacted that all persons receiving papal provisions should be liable to imprisonment, and that all the preferments to which the pope nominated should be forfeit for that turn to the king. But even this bold measure, in which the good sense of the Parliament condemned the proceedings of the pope, was turned by royal manipulation to the advantage of the crown alone. A system was devised which saved the dignity of all parties. When a see became vacant, the king sent to the chapter his license to elect, accompanied or followed by a letter nominating the person whom he would accept if elected. He also, by letter to the pope, requested that the same person might be appointed by papal provision. With equal complaisance the chapters elected and the popes provided. The pope retained, however, the nomination to sees vacant by translation, which vacancies he took care to multiply. This arrangement was very displeasing to the country, for the question of patronage, in other cases besides bishoprics, was becoming complicated to an extreme degree; the king presented to livings which were not vacant, and displaced incumbents by his writ of *quare impedit;* the pope's right of reservation affected the tenure of every benefice in the country.

At length, after long debates by way of letter, in 1374, a congress was held at Bruges for determining the general question; in 1375 Gregory XI annulled the appointments which he and his predecessor had made in opposition to the king, and in 1377 Edward was able to announce that whilst he himself gave up certain pieces of patronage, the pope had by word of mouth undertaken to abstain from reservations and to allow free elections to bishoprics. But this promise was as illusory as all that had gone before. The troubles of the next reign prevented England from taking advantage, as might have been expected, of the weakness of the papacy, now in a state of schism. Richard and his opponents were alike intent rather on using the papal influence for their own ends than

on securing the freedom of the Church. In 1388 Urban VI, at the instance of the lords, translated Alexander Neville from York to St. Andrews, and Thomas Arundel from Ely to York. Such a breach of law would in ordinary times have called forth a loud protest, but party spirit was rampant, and none was heard. In 1390 the statute of provisors was reënacted and confirmed, and in 1393 the great statute of præmunire secured, for the time, the observance of the statute of provisors. In 1395 the election to Exeter was made without papal interference, but in 1396 the bishops of Worcester and St. Asaph were appointed by provision; and in 1397 Richard procured the pope's assistance in translating Arundel to St. Andrews, and in appointing Walden to Canterbury; Boniface IX, the same year, translated Bishop Bockingham from Lincoln to Lichfield against his own will, and appointed Henry Beaufort in his place.

Archbishop Arundel and Henry IV managed the episcopal appointments during the latter years of the great schism; and Henry V, among the other pious acts by which he earned the support of the clergy, recognized the elective rights of the chapters, the Parliament also agreeing that the confirmation of the election should, during the vacancy of the apostolic see, be performed as it had been of old by the metropolitans. For two or three years the whole of the long disused process was revived and the Church was free. But Martin V, when he found himself seated firmly on his throne, was not content to wield less power than his predecessors had claimed. He provided thirteen bishops in two years, and threatened to suspend Chichele's legation because he was unable to procure the repeal of the restraining statutes. An attempt of the pope, however, to force Bishop Fleming into the See of York was signally defeated.

The weakness and devotion of Henry VI laid him open to much aggression; during the whole of Stafford's primacy the pope filled up the sees by provision; the council nominated their candidates; at Rome the proctors of the parties contrived a compromise; whoever otherwise lost or gained, the apostolic see obtained a recognition of its claim. During the latter years of our period the deficiency of records makes it impossible to determine whether the exercise of that claim was real or nominal; certainly the kings had no difficulty in obtaining the promotion of their creatures; a few Italian absentees were, on the other hand, allowed to hold sees in England and act as royal agents at Rome. Under Henry VII and Henry VIII the royal nominees were invariably chosen;

the popes had other objects in view than the influencing of the national churches, and the end of their spiritual domination was at hand. The clergy, too, were unable to stand alone against royal and papal pressure and placed themselves at the disposal of the government; the government was ready to use them, and paid for their service by promotion. . . .

### § 5. *National Legislation and Papal Jurisdiction*

The statute of præmunire was intended to prevent encroachments on and usurpations of royal jurisdiction. The ordinance of 1353, which was enrolled as a "statute against annullers of judgments in the king's courts," condemns to outlawry, forfeiture, and imprisonment all persons who, having prosecuted in foreign courts suits cognizable by the law of England, should not appear in obedience to summons, and answer for their contempt. The name *præmunire*, which marks this form of legislation, is taken from the opening word of the writ by which the sheriff is charged to summon the delinquent. It is somewhat curious that the court of Rome is not mentioned in this first act of præmunire; as the assembly by which it was framed was not a proper parliament, it may not have been referred to the lords spiritual; their assent is not mentioned. The act, however, of 1365, which confirms the statute of provisors, distinctly brings the suitors in the papal courts under the provisions of the ordinance of 1353, and against this the prelates protested.

In spite of the similar protest in 1393, the Parliament passed a still more important statute, in which the word *præmunire* is used to denote the process by which the law is enforced. This act, which is one of the strongest defensive measures taken during the Middle Ages against Rome, was called for in consequence of the conduct of the pope, who had forbidden the bishops to execute the sentences of the royal courts in suits connected with patronage. The political translations of the year 1388 were adroitly turned into an argument; the pope had translated bishops against their own will to foreign sees, and had endangered the freedom of the English crown, "which hath been so free at all times that it hath been in subjection to no earthly sovereign, but immediately subject to God and no other, in all things touching the regalie of the said crown." The lords spiritual had admitted that such encroachments were contrary to the right of the crown, and promised to stand by the king. It was accordingly enacted that all persons





procuring in the court of Rome or elsewhere such translations, processes, sentences of excommunication, bulls, instruments, or other things which touch the king, his crown, regality, or realm, should suffer the penalties of præmunire. The legislation exemplified in the statutes of præmunire and provisors was not a mere *brutum fulmen;* although evaded by the kings, — notably, by Richard himself in the translation of Arundel to St. Andrew's in 1397, — and, so far at least as the statute of provisors was concerned, suspended from time to time by consent of the Parliament, it was felt by the popes to be a great check on their freedom of action; it was used by Gloucester as a weapon against Beaufort; the clergy, both under papal influence and independently, petitioned from time to time for its repeal; and in the hands of Henry VIII it became a lever for the overthrow of papal supremacy. It furnishes in ecclesiastical history the clew of the events that connect the Constitutions of Clarendon with the Reformation; and, if in a narrative of the internal history of the constitution itself it seems to take a secondary place, it is only because the influences which it was devised to check were everywhere at work, and constant recurrence to their potent action would involve two separate readings of the history of every great crisis and every stage of growth.

### § 6. *Convocations of the English Clergy*

The convocations of the two provinces as the recognized constitutional assemblies of the English clergy have undergone, except in the removal of the monastic members at the dissolution, no change of organization from the reign of Edward I down to the present day. The clergy, moreover, are still, by the *præmunientes* clause in the parliamentary writ of the bishops, ordered to attend by their proctors at the session of Parliament. On both these points enough has been said in former chapters; and here it is necessary only to mention the particulars in which external pressure was applied to multiply meetings or accelerate proceedings. The clergy from the very first showed great reluctance to obey the royal summons under the *præmunientes* clause, and accordingly during a great part of the reigns of Edward II and Edward III, from the year 1314 to the year 1340, a separate letter was addressed to the two archbishops at the calling of each Parliament, urging them to compel the attendance of the clerical estate. This was ineffectual; and after the latter year the crown, having acquiesced

in the rule that the clerical tenths should be granted in the provincial convocations, seems to have cared less about the attendance of representative proctors in Parliament. On two or three critical occasions the clerical proctors were called on to share the responsibilities of Parliament; but their attendance ceased to be more than formal, and probably from the beginning of the fifteenth century ceased altogether.

With regard to the constitution of the convocations, the only question which has taken its place in political history is that of their relation to Parliament; and this question affects only those sessions of convocation which were held in consequence of a request or a command issued by the king with a view to a grant of money. The organization of the two provincial assemblies was applicable to all sorts of public business, and the archbishops seem to have encountered no opposition from the king on any occasion on which they thought it necessary to call their clergy together. The means to be taken for the extirpation of heresy, for the reform of manners, for the dealings with foreign churches and general councils, might be, and no doubt were, generally concerted in such assemblies. Archbishop Arundel and his successors held several of these councils, which are not to be distinguished from the convocations called at the king's request in any point except that they were called without any such request.

As however parliaments and convocations had this much in common, that the need of pecuniary aid was the king's chief reason for summoning them, it might naturally be expected that, when a Parliament was called, the convocations would at no great distance of time be summoned to supplement its liberality with a clerical gift. We have seen how regularly this function was discharged during the fifteenth century, and how the clerical grant followed in due proportion the grant of the laity. But although in nearly every case there is a session of convocation to match the session of Parliament, the session of convocation cannot be regarded as an adjunct of Parliament. Archbishop Wake, in his great controversy with Atterbury, showed from an exhaustive enumeration of instances that, even where the purpose of the two assemblies was the same, there was no such close dependence of the convocation upon the Parliament as was usual after the changes introduced by Henry VIII.

The king very seldom even suggests the day for the meeting of convocation; its sessions and adjournments take place quite irrespective of those of Parliament; very rare attempts are made to

interfere with its proceedings even when they are unauthorized by the royal writ of request; and, after the accession of the House of Lancaster, they are not interfered with at all. On the side of the papacy, interference could scarcely be looked for. As a legate could exercise no jurisdiction at all without royal license, a legatine council could not be held in opposition to the king's will; but the days of legatine councils of the whole national Church seemed at all events to be over; there is no trace of any important meeting of such assembly between the days of Arundel and those of Wolsey; although, after the date at which both archbishops acquired the legatine character, both the provincial convocations might be invidiously represented as legatine councils. . . .

### § 7. *National Legislation Relating to the Church*

The several legislative measures by which at various times the crown or the Parliament endeavored to regulate the proceedings of the national Church may be best arranged by reference to the particular subject-matter of the acts. They are important constitutional muniments, but are not very numerous or diversified. First among them come the ordinances or statutes by which the tenure of church property was defined and its extension limited. The establishment of the obligation of homage and fealty due for the temporalities or lands of the clergy was the result of a compromise between Henry I and Anselm, and it was accordingly not so much an enactment made by the secular power against the ecclesiastical as a concordat betwixt the two.

It was not so with the mortmain act, or with the series of provisions in which the statute "de religiosis" was prefigured, from the great charter downwards. To forbid the acquisition of lands by the clergy, without the consent of the overlord of whom the lands were held, was a necessary measure and one to which a patriotic ecclesiastic like Langton would have had no objection to urge. But the spirit of the clergy had very much changed between 1215 and 1279, and the statute "de religiosis," which was not so much an act of Parliament as a royal ordinance, was issued at a moment when there was much irritation of feeling between the king and the archbishop. It was an efficient limitation on the greed of acquisition, and although very temperately administered by the kings, who never withheld their license from the endowment of any valuable new foundation, it was viewed with great dislike by the popes, who constantly urged its repeal, and by the monks

whose attempts to frustrate the intention of the law by the invention of trusts and uses, are regarded by the lawyers as an important contribution to the land-law of the Middle Ages.

Other instances of legislation less directly affecting the lands of the Church were the acts by which the estates of the Templars were transferred to the Hospitallers, and the many enactments from the reign of Edward III downwards, by which the estates of the alien priories were vested in the king. Beyond these, however, which are mere instances of the use of a constitutional power, it is certain that not only the parliaments but the crown and the courts of law exercised over the lands of the clergy the same power that they exercised over all other lands; they were liable to temporary confiscation in case of the misbehavior of their owners, to taxation, and the constrained performance of the due services; and although they were not liable to legal forfeiture, as their possessors could be deprived of no greater right in them than was involved in their official tenure, they might be detained in the royal hands on one pretext or another for long periods without legal remedy.

The patronage of parish churches was likewise a temporal right, and, although the ecclesiastical courts made now and then a vain claim to determine suits concerning it, it was always regarded as within the province of state legislation. The spiritual revenues of the clergy, the tithes and offerings which were the endowment of the parochial churches, were subject to a divided jurisdiction; the title to ownership was determined by the common law, the enforcement of payment was left to the ecclesiastical courts. The attempts of the Parliament to tax the spiritualities were very jealously watched, and generally, if not always, defeated. The Parliament, however, practically vindicated its right to determine the nature of the rights of the clergy to tithe of underwood, minerals, and other newly asserted or revived claims. In 1362 a statute fixed the wages of stipendiary chaplains.

A second department in which the spirituality was subjected to the legislative interference of the State was that of judicature. In this region a continual rivalry was carried on from the Conquest to the Reformation, the courts of the two powers, like all courts of law, being prone to make attempts at usurpation, and the interference of the crown as the fountain of justice, or of the Parliament as representing the nation at large, being constantly invoked to remedy the evils caused by mutual aggression. Of the defining limits of this legislation, the "articuli cleri" of 1316, and the writ





of "circumspecte agatis," neither of them exactly or normally statutes, are the chief landmarks. In order to avoid repetition, we may defer noticing these disputes until we come to the general question of judicature. . . .

### § 8. *Ecclesiastical Jurisdiction*

We come to the last of our constitutional inquiries, that of judicature: the subject of jurisdiction of, by, and for the clergy, which has been through the whole period of English history one of the most important influences on the social condition of the nation, the occasion of some of its most critical experiences, and one of its greatest administrative difficulties. In the very brief notice which can be here given to it, it will be necessary to arrange the points which come before us under the following heads: first, the jurisdiction exercised by the secular courts over ecclesiastical persons and causes; secondly, the jurisdiction exercised by the spiritual courts over laymen and temporal causes; thirdly, the jurisdiction of the spiritual courts over the clergy; and fourthly, the judicial claims and recognized authority on judicial matters of the pope of Rome.

All suits touching the temporalities of the clergy were subject to the jurisdiction of the king's courts, and against so reasonable a rule scarcely any traces of resistance on the part of the clergy are found. Yet it is not improbable that during the quarrels of the twelfth century some question on the right of the bishop to try such suits may have arisen. Glanville gives certain forms of prohibition in which the ecclesiastical judges are forbidden to entertain suits in which a lay fee is concerned; and Alexander III, in a letter addressed to the bishops in 1178, directed them to abstain from hearing such causes, the exclusive jurisdiction of which belonged to the king. In reference to lands held in frankalmoign, disputes between clergymen belonged to the ecclesiastical courts; but the question whether the land in dispute was held by this tenure or as a lay fee was decided by a recognition under the king's writ.

The jurisdiction as to tithes was similarly a debateable land between the two jurisdictions, the title to the ownership, as in questions of advowson and presentation, belonging to the secular courts, and the process of recovery belonging to the court Christian. The right of defining matters titheable was claimed by the archbishops in their constitutions, but without much success, the local

custom and prescription being generally received as decisive in the matter. The right of patronage was determined in the king's courts. In each of these departments, however, some concert with the ecclesiastical courts was indispensable; many issues of fact were referred by the royal tribunals to the court Christian to be decided there, and the interlacing, so to speak, of the two jurisdictions was the occasion of many disputes both on general principle and in particular causes. These disputes, notwithstanding the legislative activity of the kings and the general good understanding which subsisted between them and the prelates, were not during the Middle Ages authoritatively and finally decided. It is enough for our present purpose to state generally the tendency to draw all causes which in any way concerned landed property into the royal courts, and to prevent all attempts at a rival jurisdiction. . . .

In criminal suits the position of the clergy was more defensible. The secular courts were bound to assist the spiritual courts in obtaining redress and vindication for clergymen who were injured by laymen; in cases in which the clerk himself was accused, the clerical immunity from trial by the secular judge was freely recognized. If the ordinary claimed the incriminated clerk, the secular court surrendered him for ecclesiastical trial: the accused might claim the benefit of clergy either before trial or after conviction in the lay court; and it was not until the fifteenth century that any very definite regulation of this dangerous immunity was arrived at. We have seen the importance which the jurisdiction over criminous clerks assumed in the first quarrel between Becket and Henry II. It was with the utmost reluctance that the clergy admitted the decision of the legate Hugo Pierleoni, that the king might arrest and punish clerical offenders against the forest law.

The ordinary, moved by a sense of justice or by a natural dislike to acknowledge the clerical character of a criminal, would not probably, except in times of political excitement, interfere to save the convicted clerk; and in many cases the process of retributive justice was too rapid to allow of his interposition. It is not a little curious, however, to find that Henry IV, at the time of his closest alliance with Arundel, did not hesitate to threaten archbishops and bishops with condign punishment for treason; that on one famous occasion he carried the threat into execution; and that the hanging of the mendicant friars, who spread treason in the earlier years of his reign, was a summary proceeding which would have endangered the throne of a weak king even in less tumultuous times.





Into the legal minutiæ of these points we are not called on to enter: as to their social and constitutional bearing, it is enough to remark that, although, in times when class jealousies are strong, clerical immunities are in theory, but in theory only, a safeguard of society, their uniform tendency is to keep alive the class jealousies; they are among the remedies which perpetuate the evils which they imperfectly counteract. In quiet times such immunities are unnecessary; in unquiet times they are disregarded.

Of the temporal causes which were subject to the cognizance of ecclesiastical courts the chief were matrimonial and testamentary suits, and actions for the recovery of ecclesiastical payments, tithes, and customary fees. The whole jurisdiction in questions of marriage was, owing to the sacramental character ascribed to the ordinance of matrimony, throughout Christendom a spiritual jurisdiction. The ecclesiastical jurisdiction in testamentary matters and the administration of the goods of persons dying intestate, was peculiar to England and the sister kingdoms, and had its origin, it would appear, in times soon after the Conquest. In Anglo-Saxon times there seems to have been no distinct recognition of the ecclesiastical character of these causes, and even if there had been they would have been tried in the shire-moot. Probate of wills is also in many cases a privilege of manorial courts, which have nothing ecclesiastical in their composition, and represent the more ancient moots in which no doubt the wills of the Anglo-Saxons were published. As however the testamentary jurisdiction was regarded by Glanville as an undisputed right of the church courts, the date of its commencement cannot be put later than the reign of Henry I, and it may possibly be as old as the separation of lay and spiritual courts. The "subtraction of tithe" and refusal to pay ecclesiastical fees and perquisites were likewise punished by spiritual censures which the secular power undertook to enforce.

As all these departments closely bordered upon the domain of the temporal courts, some concert between the two was indispensable; and there were many points on which the certificate of the spiritual court was the only evidence on which the temporal court could act; in questions of legitimacy, regularity of marriage, the full possession of holy orders, and the fact of institution to livings, the assistance of the spiritual court enabled the temporal courts to complete their proceedings in suits touching the title to property, dower, and patronage; and the more ambitious prelates of the thirteenth century claimed the last two departments for the spiritual courts. In this, however, they did not obtain any support from Rome, and at

home the claim was disregarded. Besides these chief points, there were other minor suits for wrongs for which the temporal courts afforded no remedy, such as slander in cases where the evil report did not cause material loss to the person slandered: these belonged to the spiritual courts and were punished by spiritual penalties.

Besides the jurisdiction in these matters of temporal concern, there was a large field of work for the church courts in disciplinary cases: the cognizance of immorality of different kinds, the correction of which had as its avowed purpose the benefit of the soul of the delinquent. In these trials the courts had their own methods of process derived in great measure from the Roman law, with a whole apparatus of citations, libels, and witnesses, the process of purgation, penance, and, in default of proper satisfaction, excommunication and its resulting penalties enforced by the temporal law. The sentence of excommunication was the ultimate resource of the spiritual courts. If the delinquent held out for forty days after the denunciation of this sentence, the king's court, by writ of significavit or some similar injunction, ordered the sheriff to imprison him until he satisfied the claims of the Church.

These proceedings furnished employment for a great machinery of judicature; the archbishops in their prerogative courts, the bishops in their consistories, the archdeacons in some cases, and even the spiritual judges of still smaller districts, exercised jurisdiction in all these matters; in some points, as in probate and administration, coördinately, in others by way of delegation or of review and appeal. . . .

The jurisdiction of the spiritual courts over spiritual men embraced all matters concerning the canonical and moral conduct of the clergy: faith, practice, fulfilment of ecclesiastical obligations, and obedience to ecclesiastical superiors. For these questions the courts possessed a complete jurisprudence of their own, regular processes of trial, and prisons in which the convicted offender was kept until he had satisfied the justice of the Church. In these prisons the clerk, convicted of a crime for which if he had been a layman he would have suffered death, endured lifelong captivity; here the clerk convicted of a treason or felony in the secular court, and subsequently handed over to the ordinary, was kept in safe custody.

In 1402, when Henry IV confirmed the liberties of the clergy, the archbishop undertook that no clerk convicted of treason, or being a common thief, should be admitted to purgation, and that





this should be secured by a constitution to be made by the bishops. These prisons, especially after the alarms consequent on the Lollard movements, were a grievance in the eyes of the laity, who do not seem to have trusted the good faith of the prelates in their treatment of delinquent clergy. The promise of Archbishop Arundel was not fulfilled.

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# CHAPTER V

## JOHN WYCLIFFE AND THE CHURCH

THOUGH there were many critics of the abuses in the Church during the Middle Ages, John Wycliffe differed from them in being revolutionary in matters of religious doctrine. He has long been regarded as the precursor of the Reformation in England; but it now seems tolerably certain that his doctrines found no considerable acceptance among the people of England at the opening of the sixteenth century. Indeed, the thoroughness with which his influence was checked is remarkable, especially when his widespread activities, the volume of his writings, and the determination of his followers are taken into consideration. It constitutes an interesting psychological problem just why this was so, in view of the developments a century and a half later. Great light will be thrown upon this problem by studying the conditions of the continental Church which for a time furthered his revolt, and also the causes for the strength of the Church in England at the close of the fourteenth century.

### § 1. *Outline of Wycliffe's Life*[1]

Wycliffe was of North English parentage, and was born about 1320 in the Richmond district of Yorkshire. He was sent to Oxford, but when and how is unknown; the attractions of an intellectual life kept him at the University, where he passed through many grades and offices, and took his share both in the teaching and administration of the place. He was once Master of Balliol; he was perhaps Warden of Canterbury Hall. His reputation as a theologian increased gradually, but until he was some fifty years of age it was an Oxford reputation only. It is impossible to say

[1] Trevelyan, *England in the Age of Wycliffe*, pp. 169 ff. By permission of G. M. Trevelyan, Esq., and Messrs. Longmans, Green & Company Publishers.

whether he resided all the year round, or all years together, at the University. From 1363 onwards he held livings in the country, though never more than one at a time.

In 1374 he finally received from the crown the rectory of Lutterworth, with which his name is forever connected. There he lived continuously after his expulsion from Oxford in 1382; there he wrote his later works and collected his friends and missionaries. The Leicestershire village became the centre of a religious movement. Owing to the difficulty of ascertaining the exact dates of his different books and pamphlets, it would be hard to distinguish between those of his theories which issued from Oxford and those which first appeared at Lutterworth. There is no need in a general history of the times to attempt the difficult task of exact chronological division, such as would be necessary in a biography of Wycliffe. It is enough to know that his demand for disendowment preceded his purely doctrinal heresies; that his quarrel with the friars came to a head just before his denial of transubstantiation in 1380, while his attack on the whole organization and the most prominent doctrines of the mediæval Church is found in its fulness only in his later works.

### § 2. *Scholasticism and Wycliffe's Mental Attitude*

The method by which he arrived at his conclusions was in appearance the scholastic method then recognized. Without such a basis his theories would have been treated with ridicule by all theologians, and he would have been as much out of place at Oxford as Voltaire in the Sorbonne. The system of argument, which makes his Latin writings unreadable in the nineteenth century, made them formidable in the fourteenth. And yet, essentially, he was not an academician. Instinct and feeling were the true guides of his mind, not the close reasoning by which he conceived that he was irresistibly led to inevitable conclusions. The doctrines of Protestantism, and the conception of a new relation between Church and State, were not really the deductions of any cut-and-dried dialectic. The one important inclination that he derived from scholasticism was the tendency, shared with all mediæval thinkers, to carry his theories to their furthest logical point. Hence he was rather a radical than a moderate reformer. This uncompromising attitude of mind assigned to him his true function.

He was not the leader of a political party trying to carry through

the modicum of reform practical at the moment; but a private individual trying to spread new ideas and to begin a movement of thought which should bear fruit in ages to come. His later writings show that he had ceased to regard himself as a "serious politician"; perhaps he was dimly aware that he was something greater. He did well, both for himself and the world, to throw aside all hopes of immediate success and speak out the truth that was in him without counting the cost. But his greatest admirers must admit that in some cases his logic drove him to give unwise and impossible advice. Some will think his recommendation of complete disendowment and the voluntary system to be little better, and all will probably agree that his proposal to include the universities in this scheme was unnecessary. But as they were then part of the Church, he did not see how it was consistent with his logic that they should continue to hold endowments of land and appropriated tithes.

### § 3. *Development of Wycliffe's Doctrines*

In the same way, he carried to an equally extravagant length his theory that the life of the priest should be purely spiritual. To spiritualize the occupations of the clergy was a very desirable reform at this time, but there was no need that Wycliffe should therefore wish to restrict their studies to theology. His objection to the attendance of clergy at lectures on law and physical science was, beyond doubt, a step in the wrong direction. He was confirmed in this error by his belief in the all-sufficiency of the Bible. "This lore that Christ taught us is enough for this life," he says, "and other lore, and more, over this, would Christ that were suspended." Learned as he was himself, he affected to depreciate earthly learning. But while such extravagances detract somewhat from his greatness, as they certainly detracted from his usefulness, they cannot be held, as his enemies hold them, to be the principal part of his legacy to mankind. True genius nearly always pays the price of originality and inventive power, in mistakes proportionately great.

In his political ideas regarding the Church, Wycliffe was one of a school. Continental and English writers had already for a century been theorizing against the secular power of ecclesiastics. The Papal Bull of 1377 had likened Wycliffe's early heresies to the "perverse opinions and unlearned learning of Marsiglio of Padua of damned memory," who had demanded that the Church should





be confined to her spiritual province, and had attacked the "Cæsarean clergy."

Wycliffe himself recognized Occam as his master, for his great fellow-countryman had more than fifty years back declared it the duty of priests to live in poverty, and had maintained with his pen the power of the secular State against the pope. It was by the spiritual Franciscans, "those evangelical men," as Wycliffe called them, "very dear to God," that the poverty ordered by the Gospel had been chiefly practised and preached as an example for the whole Church.

On the other hand, it was to their enemy Fitz Ralph, Bishop of Armagh, that he owed his doctrine of "dominion." Grossetête, the reforming bishop of Lincoln, had in his day attacked pluralities and opposed the abuses of papal power in England. Wycliffe not only spoke of him with respect and admiration, but again and again quoted his words and advanced his opinions as authoritative. But while these predecessors had dealt with one or two points only, Wycliffe dealt with religion as a whole. Besides the political proposals of Occam and Marsiglio, he sketched out a new religion which included their proposed changes as part only of the new ideas respecting the relations of man to God.

In this field of doctrine and religion he was himself the originator of a school. His authorities, his teachers, were not the thinkers of his own century, but the fathers of the early Church. Few, perhaps, of his ideas were new in the sense that they had never before been conceived by man. But many were absolutely new to his age. In those days there was no scientific knowledge of the past, and mere tradition can be soon altered.

If the Catholic faith of the tenth century had been modified, no one in the fourteenth would have known that any such change had taken place. Even the memory of the Albigenses and their terrible fate seems to have vanished, or to have survived only as a tale that is told. They are not mentioned in Wycliffe's writings. He did not borrow his heresies from them, as the Hussites borrowed from him. Wycliffe's restatements, if such they were, were therefore to all intents and purposes discoveries. The doctrine of transubstantiation had not always been held by the Church, but it had been held for many generations when it was denied by Wycliffe. His declaration that his own view had been the orthodox faith for "the thousand years that Satan was bound," was of little meaning to the unlearned and unimaginative.

### § 4. *The Doctrine of Transubstantiation*

He developed this famous heresy in 1379 and 1380, during the latter part of his residence at Oxford. He had previously believed in the great miracle, but was led into his new position, he declares, by the metaphysical consideration of the impossibility of accidents existing without substance. This may well be true; the terms are a philosophical way of stating the plain man's difficulties. But there were many other considerations besides metaphysical arguments which influenced his judgment. Transubstantiation was unsuited to the general character of his mind, which always found difficulty in attributing very high sacredness to particles of matter. Thus he complained that the orthodox view of the Eucharist was a cause of idolatry, that the people made the host their God.

Ever since his day the question has been the shibboleth dividing off those who revolt against materialized objects of reverence and worship from those to whom the materialization gives no offence. Neither was Wycliffe blind to the use made of the theory of transubstantiation by the priests, and still more by the friars, to secure the veneration and obedience of those to whom they ministered. He declared that nothing was more horrible to him than the idea that every celebrating priest made the body of Christ; the mass was a false miracle invented for mundane purposes. It is now acknowledged that the power of the clergy is strongest with those peoples who believe in transubstantiation. Even in the fourteenth century the Church recognized that her position depended on the doctrine.

Whether Wycliffe knew what a storm he was about to raise, it is impossible to say. At any rate, the storm arose at once, and he never for an instant shrank from its fury. John of Gaunt hurried down in person to Oxford, and ordered him to be silent on the question. Such vigorous action shows not only what importance the duke attached to his ally, but the alarm with which he regarded heresy about the mass. The way was now divided before Wycliffe, and he had to make his choice. By a sacrifice of principle he would have become the bond-slave of a discredited political party, but he would have remained at Oxford safe from all annoyance by the Church, under the patronage and occasionally in the employment of the State; by doing the duty which lay before him without consideration of consequence, he sacrificed the Lancastrian alliance, he threw away the protection of the government, he put





himself at the mercy of the bishops, he was driven from Oxford; he ceased to have an honored position in high circles, to be spoken of with respect by great friends and recognition by great enemies.

The hopes and schemes of the last ten years vanished. By his refusal to obey the duke he entered finally on the new life into which he had been gradually drifting for some time past, — the life of the enthusiast who builds for the future and not for the present, with the arm of the spirit and not with the arm of the flesh. Such a choice was not so hard for Wycliffe as it has often proved for others. He was no sensitive Erasmus. Proud and ascetic, he had ever despised the things of this world. A man of war from his youth up, the truth was always more to him than peace. He refused to be silent on the dangerous subject, and John of Gaunt retired from Oxford baffled. It would be interesting to know what thoughts were uppermost in the duke's mind as he rode out of the town after this memorable interview.

Although, in arguing against the orthodox view of the Real Presence, Wycliffe put forward forcibly, and even crudely, the evidences of the senses, and laid stress on the absurdity of a useless miracle performed many times a day, often by the lowest type of priest, he never went farther in his depreciation of the sacrament than the position generally known as consubstantiation. The Eucharist always presented to him a mystery. He believed the body was in some manner present, though how he did not clearly know; he was only certain that bread was present also.

### § 5. *Wycliffe and Other Ecclesiastical Doctrines and Practices*

With regard to the other sacraments, Wycliffe depreciated the importance then attached to them, though he made an exception in favor of matrimony. He himself did not propose to reduce their number, although the change effected by the Protestants of a later age was in perfect accord with his principles. It is unnecessary again to point out how very different was his view of penance, extreme unction, and holy orders from that of the Catholic Church. We find, in Waldensis's confutation of Lollardry that, as we should suppose from a perusal of Wycliffe's own works, the distinguishing feature of the sect was a depreciation of the miraculous power of the church sacraments, and the peculiar saving qualities of ceremonies, prayers, and pardons. Wycliffe pointed out that there was another road to salvation, — a godly life. He thought the religious world had been led astray, and in pursuit of

formulas was forgetting the essence of Christianity. The direct relation of the individual to God without these interventions was the positive result of his negative criticism. This idea seems to form the basis of all his objections and of all his scepticism. This was the centre of a rather unsystematized crowd of thoughts which he threw out on the world, which have sometimes been regarded as detached and chaotic.

The same principle appears in his attitude towards church services. The degree to which a rite increased the real devotion of the people was, he declared, the test of its propriety. He found that intoning and elaborate singing took the mind off the meaning of the prayer. He quoted St. Augustine's dictum "as oft as the song delighteth me more than that is songen, so oft I acknowledge I trespass grievously." This became a favorite text with his followers. By the same standard, he judged that the splendid building and gaudy decoration of churches drew away the minds of the worshippers. In that age, whatever deterioration there might be in other spheres of ecclesiastical activity, the unbroken but progressive tradition of Gothic architecture still continued to fill the country with achievements as noble as any that the art of man has accomplished. The simple magnificence of the Early English style was being gradually modified, so as to exhibit larger quantities of delicate tracery. At the same time the church services, in the hands of armies of choristers and chantry priests, were being adorned by music more difficult and by intoning more elaborate than the old Gregorian chants.

But what were these new beauties to the class of men who find no reality of worship under such forms, and who require something altogether different by way of religion? To their needs and thoughts Wycliffe gave expression in language which, compared to his language on some other subjects, is extremely moderate. But his demand was distinct, and it was founded on a want deeply felt by many of his countrymen. We are not surprised to find that the Lollards in the next generation found no comfort in the services of the Church, and for lack of conventicles "met in caves and woods." A distinctive character was thus given to the worship of the new English heretics; it was a worship essentially Protestant, and did not depend for its performance on priest or Church.

Although we have no account of the meetings of these first nonconformists, their character can be gathered from the writings of Wycliffe and his followers, who again and again insist on the greater importance of preaching and the smaller importance of





ceremonies. Preaching, they declared, was the first duty of clergymen, and of more benefit to the laity than any sacrament. The sermon was the special weapon of the early reformers; it was the distinguishing mark of Wycliffe's poor priests. Their chief rivals in this art, as in everything else, were the friars, of whose sermons there were always enough and to spare. But Wycliffe accused the friars of preaching to amuse men and to win their money, making up for want of real earnestness by telling stories more popular than edifying. He wanted an entirely different class of preacher, one who should call people to repentance, and make the sermon the great instrument for reformation of life and manners. To Wycliffe preaching seemed the most effectual means by which to arouse men to a sense of their personal relation to God, and of the consequent importance of their every action. Absolution, masses, pardons, and penance commuted for money were so many ways of keeping all real feeling of responsibility out of the mind. "To preach to edifying" became the care of the Lollards, in the place of ceremonies and rituals. . . .

He regarded the Virgin Mary in a spirit halfway between the Mariolatry of his contemporaries and the fierce anger with which Knox threw her image into the waters as a "painted bred." He has left us an interesting treatise entitled *Ave Maria*, in which he holds up her life as an example to all, and especially to women, in language full of sympathy and beauty. But he does not advise people to pray to her. He does not speak either in praise or condemnation of the images of the Virgin, which then looked down from every church in the land.

Although he did not generally indulge in tirades against idolatry, he mentions the mistaken worship of images as part of other superstitious practices attaching to the popular cultus of saints; he puts it on the same footing as the foolish adoration of relics, the costly decoration of shrines, and other ways in which pilgrims wasted their time and money. Wycliffe was not the first or only man of his time in England to be shocked by these practices. Langland, whose *Piers Plowman* was generally read among all classes ten or twenty years before the rise of Lollardry, had in that great work spoken even more severely of the popular religion, and used the word *idolatry* more freely than Wycliffe. Chaucer's gorge rose at the Pardoner and his relics of "pigge's bones." The impulse that Wycliffe gave was therefore welcome to many, and was eagerly followed by the Lollards, who soon became more distinctly iconoclastic than their founder, and regarded saints, saints' days,

and saint-worship with a horror which he never expressed. But his other doctrines of the relation of man to God and of man to the Church, his new ideas of pardon and absolution, were the only effective engine for the destruction of those abuses and vulgarities which Langland and Chaucer vainly deprecated.

Against the persons and classes who lived by encouraging superstition, Wycliffe waged implacable war. He recognized that as long as the orders of friars existed in England it would always be hard to fight against the practices and beliefs which they taught. His views on monks and on bishops, respectively, were much the same. His objections to them all were founded on the belief that they were the real props of all he sought to destroy, the sworn enemies of all he sought to introduce. After his quarrel with the friars, he put these thoughts into a definite formula. All men, he declared, belonged, or ought to belong, to the "sect of Christ," and to that alone. The distinguishing mark of the members was the practice of Christian virtues in ordinary life, whether by priest or layman. The body had therefore its rule, the Christian code of morality. He found, he said, no warrant in Scripture to justify any man in binding himself by another code of religious rules, or becoming a member of any new sect. Yet that, he said, was what the monks and friars had done. They claimed to be "the religious," more dear to God than other men. But their rule was of earthly making, the work of Benedict, or Francis, not of Christ; there was really only one rule of life, and that was binding on all Christians equally. Religion did not consist in peculiar rites distinguishing some men from others. Wycliffe affected also to regard the worldly prelates and clergy, who held secular office and secular property, as another "sect." The pretensions and self-interest of the Church, and the intense party spirit actuating the authorities, gave a certain meaning to the word. A powerful and jealous organization, dangerous to the State as well as fatal to individual freedom of religious practice, was very far from that idea of the Church which Wycliffe thought he found in the histories of the early Christian community. . . .

The pope had no place in Wycliffe's free Church of all Christian men. "If thou say that Christ's Church must have a head here on earth, sooth it is, for Christ is head, that must be here with his Church until the day of doom." This complete repudiation of papal authority was the last stage of a long process. Until the time of the schism he had done no more than state the fallibility of the pope, and expose papal deviations from the "law of God."

When in 1378 his enemy and persecutor Gregory the Eleventh died, he welcomed the accession of Urban the Sixth, and hoped to see in him a reforming head of Christendom. He was soon disappointed. The anti-pope Clement was set up at Avignon, and gods and men were edified by the spectacle of the two successors of St. Peter issuing excommunications and raising armies against each other. Then, and not till then, Wycliffe denied all papal power over the Church.

The positive basis which Wycliffe set up, in place of absolute church authority, was the Bible. We find exactly the same devotion to the literal text in Wycliffe and his followers as among the later Puritans. He even declared that it was our only ground for belief in Christ. Without this positive basis, the struggle against Romanism could never have met with the partial success that eventually attended it.

As for a new scheme of church government, Wycliffe cannot be said to have put one forward. He pleaded for greater simplicity of organization, greater freedom of the individual, and less crushing authority. As his object was to free those laymen and parsons who were of his way of thinking from the control of the pope and bishops, he proposed to abolish the existing forms of church government. But he never devised any other machinery, such as a presbytery, to take their place. The time had not come for definite schemes, such as were possible and necessary in the days of Luther, Calvin, and Cranmer, for success was not even distantly in sight. The position of the Lollards was anomalous, standing half inside and half outside the Church.

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# PART IV

## THE TUDOR AGE

### CHAPTER I

#### THE NEW LEARNING — ERASMUS AND MORE

THE development of Tudor absolutism after the battle of Bosworth helped to direct into peaceful channels the forces which had been wasted and checked by feudal and dynastic conflicts. The rapid expansion of ocean trade gave the requisite opportunities for the numerical increase of the trading and industrial classes, and the correlated classes such as the lawyers. The introduction of the printing-press stimulated intellectual activity which quickly widened the range of man's interests and speculations. This general European awakening was represented in England by many distinguished men, among whom Colet, More, Grocyn, and Linacre stand out most prominently. With this group is often associated Erasmus who, though born at Rotterdam, was cosmopolitan by nature and spent some time in England. Several of these men of letters while loyal to the authority of the Church Universal were keenly alive to many existing abuses in Church and State, and in two famous works, the *Praise of Folly* and the *Utopia*, Erasmus and More gave free swing to the spirit of criticism. Of these two books, Seebohm, in his *Oxford Reformers*, gives an entertaining account.

##### § 1. *Erasmus Writes the "Praise of Folly" While Resting at More's House* (1510 *or* 1511) [1]

To beguile his time, Erasmus took pen and paper, and began to

[1] Seebohm, *The Oxford Reformers*, 3d edition, pp. 192 ff. and 346 ff. By permission of Frederick Seebohm, Esq., and Messrs. Longmans, Green, & Company, Publishers.





write down at his leisure the satirical reflections on men and things which, as already mentioned, had grown up within him during his recent travels, and served to beguile the tedium of his journey from Italy to England. It was not done with any grave design or any view of publication; but he knew his friend More was fond of a joke, and he wanted something to do to take his attention from the weariness of the pain which he was suffering. So he worked away at his manuscript. One day when More came home from business, bringing a friend or two with him, Erasmus brought it out for their amusement. The fun would be so much the greater, he thought, when shared by several together. He had fancied Folly putting on her cap and bells, mounting her rostrum, and delivering an address to her votaries on the affairs of mankind. These few select friends having heard what he had already written, were so delighted with it that they insisted on its being completed. In about a week the whole was finished. This is the simple history of the *Praise of Folly*.

### § 2. *Grammarians and the Scholastic System*

It was a satire upon follies of all kinds. The bookworm was smiled at for his lantern jaws and sickly look; the sportsman for his love of butchery; the superstitious were sneered at for attributing strange virtues to images and shrines, for worshipping another Hercules under the name of St. George, for going on pilgrimage when their proper duty was at home. The wickedness of fictitious pardons and the sale of indulgences, the folly of prayers to the Virgin in shipwreck or distress, received each a passing censure.

Grammarians were singled out of the regiment of fools as the most servile votaries of folly. They were described as "a race of men the most miserable, who grow old in penury and filth in their schools — schools, did I say? prisons! dungeons! I should have said — among their boys, deafened with din, poisoned by a fetid atmosphere, but, thanks to their folly, perfectly self-satisfied, so long as they can bawl and shout to their terrified boys, and box and beat and flog them, and so indulge in all kinds of ways their cruel disposition."

After criticising with less severity poets and authors, rhetoricians and lawyers, Folly proceeded to reëcho the censure of Colet upon the dogmatic system of the Schoolmen.

She ridiculed the logical subtlety which spent itself on splitting

hairs and disputing about nothing, and to which the modern followers of the Schoolmen were so painfully addicted. She ridiculed, too, the prevalent dogmatic philosophy and science, which having been embraced by the Schoolmen and sanctioned by ecclesiastical authority, had become a part of the scholastic system. "With what ease do they dream and prate of the creation of innumerable worlds; measuring sun, moon, stars, and earth as though by a thumb and thread; rendering a reason for thunder, wind, eclipse, and other inexplicable things; never hesitating in the least, just as though they had been admitted into the secrets of creation, or as though they had come down to us from the council of the Gods — with whom, and whose conjectures, Nature is mightily amused!"

### § 3. *Scholastic Theology and Foolish Questions*

From dogmatic science Folly turned at once to dogmatic theology, and proceeded to comment in her severest fashion on a class whom, she observes, it might have been safest to pass over in silence — divines. "Their pride and irritability are such (she said) that they will come down upon me with their six hundred conclusions, and compel me to recant; and, if I refuse, declare me a heretic forthwith. . . . They explain to their own satisfaction the most hidden mysteries: how the universe was constructed and arranged — through what channels the stain of original sin descends to posterity — how the miraculous birth of Christ was effected — how in the Eucharist wafer the accidents can exist without a substance, and so forth. And they think themselves equal to the solution of such questions as these: Whether . . . God could have taken upon himself the nature of a woman, a devil, an ass, a gourd, or a stone? And how in that case a gourd could have preached, worked miracles, and been nailed to the cross? What Peter would have consecrated if he had consecrated the Eucharist at the moment that the body of Christ was hanging upon the Cross? Whether at that moment Christ could have been called a man? Whether we shall eat and drink after the resurrection?" In a later edition, Folly is made to say further: "These Schoolmen possess such learning and subtlety that I fancy even the Apostles themselves would need another Spirit, if they had to engage with this new race of divines about questions of this kind." . . .

After pursuing the subject further, Folly suggests that an army

of them should be sent against the Turks, not in the hope that the Turks might be converted by them so much as that Christendom would be relieved by their absence, and then she is made quietly to say: "You may think all this is said in joke, but seriously, there are some, even amongst divines themselves, versed in better learning, who are disgusted at these (as they think) frivolous subtleties of divines. There are some who execrate, as a kind of sacrilege, and consider as the greatest impiety these attempts to dispute with unhallowed lips and profane arguments about things so holy that they should rather be adored than explained, to define them with so much presumption, and to pollute the majesty of divine theology with cold, yea and sordid, words and thoughts. But, in spite of these, with the greatest self-complacency divines go on spending night and day over their foolish studies, so that they never have any leisure left for the perusal of the gospels, or the epistles of St. Paul."

Finally, Folly exclaims, "Are they not the most happy of men whilst they are treating of these things? whilst describing everything in the infernal regions as exactly as though they had lived there for years? whilst creating new spheres at pleasure, one, the largest and most beautiful, being finally added, that, forsooth, happy spirits might have room enough to take a walk, to spread their feasts, or to play at ball?" . . .

Monks came in for at least as rough a handling. There is perhaps no more severe and powerful passage anywhere in the whole book than that in which Folly is made to draw a picture of their appearance on the Judgment Day, finding themselves with the goats on the left hand of the Judge, pleading hard their rigorous observance of the rules and ceremonies of their respective orders, but interrupted by the solemn question from the Judge: "Whence this race of new Jews? I know only of one law which is really mine; but of that I hear nothing at all. When on earth, without mystery or parable, I openly promised my Father's inheritance, not to cowls, matins, or fastings, but to the practice of faith and charity. I know you not, ye who know nothing but your own works. Let those who wish to be thought more holy than I am inhabit their newly discovered heavens; and let those who prefer their own traditions to my precepts, order new ones to be built for them." When they shall hear this (continues Folly), "and see sailors and wagoners preferred to themselves, how do you think they will look upon each other?"

### § 4. *Folly on Kings, Princes, and the Pope*

Kings, princes, and courtiers next pass under review, and here again may be traced that firm attitude of resistance to royal tyranny which has already been marked in the conduct of More. If More in his congratulatory verses took the opportunity of publicly asserting his love of freedom and hatred of tyranny in the ears of the new king, his own personal friend, as he mounted the throne, so Erasmus also, although come back to England full of hope that in Henry VIII he might find a patron, not only of learning in general but of himself in particular, took this opportunity of putting into the mouth of Folly a similar assertion of the sacred rights of the people and the duties of a king: —

"It is the duty (she suggests) of a true prince to seek the public and not his own private advantage. From the laws, of which he is both the author and executive magistrate, he must not himself deviate by a finger's breadth. He is responsible for the integrity of his officials and magistrates. . . . But (continues Folly) by my aid princes cast such cares as these to the winds, and care only for their own pleasure. . . . They think they fill their position well if they hunt with diligence, if they keep good horses, if they make gain to themselves by the sale of offices and places, if they can daily devise new means of undermining the wealth of citizens, and raking it into their own exchequer, disguising the iniquity of such proceedings by some specious pretence and show of legality."

If the memory of Henry VII was fresh in the minds of More and Erasmus, so also his courtiers and tools, of whom Empson and Dudley were the recognized types, were not forgotten. The cringing, servile, abject, and luxurious habits of courtiers were fair game for Folly.

From this cutting review of kings, princes, and courtiers, the satire, taking a still bolder flight, at length swooped down to fix its talons in the very flesh of the pope himself.

The Oxford friends had some personal knowledge of Rome and her pontiffs. When Colet was in Italy, the notoriously wicked Alexander VI was pope, and what Colet thought of him has been mentioned. While Erasmus was in Italy, Julius II was pope. He had succeeded to the papal chair in 1503.

Julius II, in the words of Ranke, "devoted himself to the gratification of that innate love of war and conquest which was indeed the ruling passion of his life. . . . It was the ambition of

Julius II to extend the dominions of the Church. He must therefore be regarded as the founder of the Papal States." Erasmus, during his recent visit, had himself been driven from Bologna when it was besieged by the Roman army, led by Julius in person. He had written from Italy that "literature was giving place to war, that Pope Julius was warring, conquering, triumphing, and openly acting the Cæsar." Mark how aptly and boldly he now hit off his character in strict accordance with the verdict of history, when in the course of his satire he came to speak of popes. Folly dryly observes that, "Although in the gospel Peter is said to have declared, 'Lo, we have left all, and followed thee,' yet these popes speak of 'St. Peter's patrimony' as consisting of lands, towns, tributes, customs, lordships; for which, when their zeal for Christ is stirred, they fight with fire and sword at the expense of much Christian blood, thinking that in doing so they are apostolic defenders of Christ's spouse, the Church, from her enemies. As though, indeed, there were any enemies of the Church more pernicious than impious popes! . . . Further, as the Christian Church was founded in blood, and confirmed by blood, and advanced by blood, now in like manner, as though Christ were dead and could no longer defend his own, they take to the sword. And although war be a thing so savage that it becomes wild beasts rather than men, so frantic that the poets feigned it to be the work of the Furies, so pestilent that it blights at once all morality, so unjust that it can be best waged by the worst of ruffians, so impious that it has nothing in common with Christ, yet to the neglect of everything else they devote themselves to war alone."

And this bold satire upon the warlike passions of the pope was made still more direct and personal by what followed. To quote Ranke once more: "Old as Julius now was, worn by the many vicissitudes of good and evil fortune, and most of all by the consequences of intemperance and licentious excess, in the extremity of age he still retained an indomitable spirit. It was from the tumults of a general war that he hoped to gain his objects. He desired to be the lord and master of the game of the world. In furtherance of his grand aim he engaged in the boldest operations, risking all to obtain all." Compare with this picture of the old age of the warlike pope the following words put by Erasmus into the mouth of Folly, and printed and read all over Europe in the lifetime of Julius himself:—

"Thus you may see even decrepit old men display all the vigor of youth, sparing no cost, shrinking from no toil, stopped by

nothing, if only they can turn law, religion, peace, and all human affairs upside down."

In conclusion, Folly, after pushing her satire in other directions, was made to apologize for the bold flight she had taken. If anything she had said seemed to be spoken with too much loquacity or petulance, she begged that it might be remembered that it was spoken by Folly. But let it be remembered also, she added, that —

A fool oft speaks a seasonable truth.

She then made her bow, and descended the steps of her rostrum, bidding her most illustrious votaries farewell, — *valete, plaudite, vivite, bibite!*

Such was the *Praise of Folly*, the manuscript of which was snatched from Erasmus by More or one of his friends and ultimately sent over to Paris to be printed there, probably in the summer of 1511, and to pass within a few months through no less than seven editions.

## § 5. *Preparation of the "Utopia"* (1515)

It was whilst More's keen eye was anxiously watching the clouds gathering upon the political horizon, and during the leisure hours snatched from the business of his embassy, that he conceived the idea of embodying his notions on social and political questions in a description of the imaginary commonwealth of the Island of "Utopia" — "Nusquama" — or "Nowhere."

It does not often happen that two friends, engaged in fellow-work, publish in the same year two books, both of which take an independent and permanent place in the literature of Europe. But this may be said of the *Novum Instrumentum* of Erasmus and the *Utopia* of More.

Still more remarkable is it that two such works, written by two such men, should, in a measure, be traceable to the influence and express the views of a more obscure but greater man than they. Yet, in truth, much of the merit of both these works belongs indirectly to Colet.

As the *Novum Instrumentum* upon careful examination proves to be the expression, on the part of Erasmus, not merely of his own isolated views, but of the views held in common by the little band of Oxford Reformers, on the great subject of which it treats, so the *Utopia* will be found to be in great measure the expression, on More's part, of the views of the same little band of friends on

social and political questions. On most of these questions Erasmus and More, in the main, thought alike; and they owed much of their common convictions indirectly to the influence of Colet.

The first book of the *Utopia* was written after the second, under circumstances and for reasons which will, in due course, be mentioned.

The second book was complete in itself and contained the description, by Raphael, the supposed traveller, of the Utopian commonwealth. Erasmus informs us that More's intention in writing it was to point out where and from what causes European commonwealths were at fault, and he adds that it was written with special reference to English politics, with which More was most familiar.

Whilst, however, we trace its close connection with the political events passing at the time in England, it must not be supposed that More was so gifted with prescience that he knew what course matters would take. He could not know, for instance, that Wolsey was about to take the reins of government so completely into his own hands as to dispense with a Parliament for so many years to come. As yet, More and his friends, in spite of Wolsey's ostentation and vanity, which they freely ridiculed, had a high opinion of his character and powers. It was not unnatural that, knowing that Wolsey was a friend to education, and, to some extent at least, inclined to patronize the projects of Erasmus, they should hope for the best. Hence the satire contained in *Utopia* was not likely to be directed personally against Wolsey, however much his policy might come in for its share of criticisms along with the rest.

The point of the *Utopia* consisted in the contrast presented by its ideal commonwealth to the condition and habits of the European commonwealths of the period. This contrast is most often left to be drawn by the reader from his own knowledge of contemporary politics, and hence the peculiar advantage of the choice by More of such a vehicle for the bold satire it contained. Upon any other hypothesis than that the evils against which its satire was directed were admitted to be real, the romance of *Utopia* must also be admitted to be harmless. To pronounce it to be dangerous, was to admit its truth.

### § 6. *International Policy of the Utopians*

Take, *e.g.*, the following passage relating to the international policy of the Utopians: —

"While other nations are always entering into leagues, and break-

ing and renewing them, the Utopians never enter into a league with any nation. For what is the use of a league? they say. As though there were no natural tie between man and man! and as though any one who despised this natural tie would, forsooth, regard mere words! They hold this opinion all the more strongly, because in that quarter of the world the leagues and treaties of princes are not observed as faithfully as they should be. For in Europe, and especially in those parts of it where the Christian faith and religion are professed, the sanctity of leagues is held sacred and inviolate; partly owing to the justice and goodness of princes, and partly from their fear and reverence of the authority of the popes, who, as they themselves never enter into obligations which they do not most religiously perform [!], command other princes under all circumstances to abide by their promises, and punish delinquents by pastoral censure and discipline. For, indeed, with good reason, it would be thought a most scandalous thing for those whose peculiar designation is 'the faithful,' to be wanting in the faithful observance of treaties. But in those distant regions . . . no faith is to be placed in leagues, even though confirmed by the most solemn ceremonies. Some flaw is easily found in their wording which is intentionally made ambiguous so as to leave a loophole through which the parties may break both their league and their faith. Which craft — yes, fraud and deceit — if it were perpetrated with respect to a contract between private parties, they would indignantly denounce as sacrilege and deserving the gallows, whilst those who suggest these very things to princes, glory in being the authors of them. Whence it comes to pass that justice seems altogether a plebeian and vulgar virtue, quite below the dignity of royalty; or at least there must be two kinds of it, the one for common people and the poor, very narrow and contracted; the other, the virtue of princes, much more dignified and free, so that that only is unlawful to them which they don't like. The morals of princes being such in that region, it is not, I think, without reason that the Utopians enter into no leagues at all. Perhaps they would alter their opinion if they lived amongst us."

Read without reference to the international history of the period these passages appear perfectly harmless. But read in the light of that political history which, during the past few years, had become so mixed up with the personal history of the Oxford Reformers, recollecting "how religiously" treaties had been made and broken by almost every sovereign in Europe, — Henry VIII and the pope included,—the words in which the justice and

goodness of European princes are so mildly and modestly extolled become almost as bitter in their tone as the cutting censure of Erasmus in the *Praise of Folly*, or his more recent and open satire upon kings.

Again, bearing in mind the wars of Henry VIII, and how evidently the love of military glory was the motive which induced him to engage in them, the following passage contains almost as direct and pointed a censure of the king's passion for war as the sermon preached by Colet in his presence: —

"The Utopians hate war as plainly brutal, although practised more eagerly by man than by any other animal. And contrary to the sentiment of nearly every other nation, they regard nothing more inglorious than glory derived from war."

### § 7. *Government a Conspiracy of the Rich against the Poor*

Turning from international politics to questions of internal policy, and bearing in mind the hint of Erasmus, that More had in view chiefly the politics of his own country, it is impossible not to recognize in the *Utopia* the expression again and again of the sense of wrong stirred up in More's heart as he had witnessed how every interest of the commonwealth had been sacrificed to Henry VIII's passion for war; and how, in sharing the burdens it entailed, and dealing with the social evils it brought to the surface, the interests of the poor had been sacrificed to spare the pockets of the rich; how, whilst the very wages of the laborer had been taxed to support the long-continued war expenditure, a selfish Parliament, under color of the old "statutes of laborers," had attempted to cut down the amount of his wages, and to rob him of that fair rise in the price of his labor which the drain upon the labor market had produced.

It is impossible not to recognize that the recent statutes of laborers were the target against which More's satire was specially directed in the following paragraph: —

"Let any one dare to compare with the even justice which rules in Utopia, the justice of other nations; amongst whom let me die, if I find any trace at all of equity and justice. For where is the justice, that noblemen, goldsmiths, and usurers, and those classes who either do nothing at all, or, in whatever they do, are of no great service to the commonwealth, should live a genteel and splendid life in idleness or unproductive labor, whilst in the meantime the servant, the wagoner, the mechanic, and the peasant, toiling almost

longer and harder than the horse, in labor so necessary that no commonwealth could endure a year without it, lead a life so wretched that the condition of the horse seems more to be envied, his labor being less constant, his food more delicious to his palate, and his mind disturbed by no fears for the future? . . .

"Is not that republic unjust and ungrateful which confers such benefits upon the gentry (as they are called) and goldsmiths and others of that class, whilst it cares to do nothing at all for the benefit of peasants, colliers, wagoners, servants, and mechanics, without which no republic could exist? Is not that republic unjust which, after these men have spent the springtime of their lives in labor, have become burdened with age and disease, and are in want of every comfort, unmindful of all their toil, and forgetful of all their services, rewards them only by a miserable death?

"Worse than all, the rich constantly endeavor to pare away something further from the daily wages of the poor, by private fraud, and even by public laws, so that the already existing injustice (that those from whom the republic derives the most benefit should receive the least reward) is made still more unjust through the enactments of public law! Thus, after careful reflection, it seems to me, as I hope for mercy, that our modern republics are nothing but a conspiracy of the rich, pursuing their own selfish interests under the name of a republic. They devise and invent all ways and means whereby they may, in the first place, secure to themselves the possession of what they have amassed by evil means; and, in the second place, secure to their own use and profit the work and labor of the poor at the lowest possible price. And so soon as the rich, in the name of the public (*i.e.* even in the name of the poor), choose to decide that these schemes shall be adopted, then they become law!"

The whole framework of the Utopian commonwealth bears witness to More's conviction, that what should be aimed at in his own country and elsewhere, was a true community, not a rich and educated aristocracy on the one hand, existing side by side with a poor and ignorant peasantry on the other, but one people, well-to-do and educated throughout.

Thus More's opinion was, that in England in his time, "far more than four parts of the whole people, divided into ten, could never read English," and probably the education of the other six-tenths was anything but satisfactory. He shared Colet's faith in education, and represented that in Utopia every child was properly educated.

Again the great object of the social economy of Utopia was not to increase the abundance of luxuries, or to amass a vast accumulation in few hands, or even in national or royal hands, but to lessen the hours of labor to the workingman. By spreading the burden of labor more evenly over the whole community, — by taking care that there should be no idle classes, be they beggars or begging friars, — More expressed the opinion that the hours of labor to the workingman might probably be reduced to six.

Again: living himself in Bucklersbury, in the midst of all the dirt and filth of London's narrow streets; surrounded by the unclean, ill-ventilated houses of the poor, whose floors of clay and rushes, never cleansed, were pointed out by Erasmus as breeding pestilence and inviting the ravages of the sweating sickness; himself a commissioner of sewers, and having thus some practical knowledge of London's sanitary arrangements, More described the towns of Utopia as well and regularly built, with wide streets, waterworks, hospitals, and numerous common halls; all the houses well protected from the weather, as nearly as might be fireproof, three stories high, with plenty of windows, and doors both front and back, the back door always opening into a well-kept garden. All this was Utopian, doubtless, and the result in Utopia of the still more Utopian abolition of private property; but the gist and the point of it consisted in the contrast it presented with what he saw around him in Europe, and especially in England, and men could hardly fail to draw the lesson he intended to teach.

It will not be necessary here to dwell further upon the details of the social arrangements of More's ideal commonwealth, or to enter at length upon the philosophical opinions of the Utopians; but a word or two will be needful to point out the connection of the latter with the views of that little band of friends whose joint history I am here trying to trace.

### § 8. *The Religion of Utopia Broad and Tolerant*

From his expression of a fearless faith in the consistency of Christianity with science, it might be inferred that More would represent the religion of the Utopians as at once broad and tolerant. It could not logically be otherwise. The Utopians, we are told, differed very widely; but notwithstanding all their different objects of worship, they agreed in thinking that there is one Supreme Being who made and governs the world. By the exigencies of the romance, the Christian religion had only been recently introduced into

the island. It existed there side by side with other and older religions, and hence the difficulties of complete toleration in Utopia were much greater hypothetically than they would be in any European country. Still, sharing Colet's hatred of persecution, More represented that it was one of the oldest laws of Utopia "that no man is to be punished for his religion." Every one might be of any religion he pleased, and might use argument to induce others to accept it. It was only when men resorted to other force than that of persuasion, using reproaches and violence, that they were banished from Utopia; and then, not on account of their religion, and irrespective of whether their religion were true or false, but for sowing sedition and creating a tumult.

This law Utopus founded to preserve the public peace, and for the interests of religion itself. Supposing only one religion to be true and the rest false (which he dare not rashly assert), Utopus had faith that in the long run the innate force of truth would prevail, if supported only by fair argument, and not damaged by resort to violence and tumult. Thus, he did not punish even avowed atheists, although he considered them unfit for any public trust.

Their priests were very few in number of either sex, and, like all their other magistrates, elected by ballot (*suffragiis occultis*); and it was a point of dispute even with the Utopian Christians, whether they could not elect their own Christian priests in like manner, and qualify them to perform all priestly offices, without any apostolic succession or authority from the pope. Their priests were, in fact, rather conductors of the public worship, inspectors of the public morals, and ministers of education than "priests" in any sacerdotal sense of the word. Thus whilst representing confession as in common use amongst Utopians, More significantly described them as confessing not to the priests but to the heads of families. Whilst also, as in Europe, such was the respect shown them that they were not amenable to the civil tribunals, it was said to be on account of the extreme fewness of their number, and the high character secured by their mode of election, that no great inconvenience resulted from this exemption in Utopian practice.

If the diversity of religions in Utopia made it more difficult to suppose perfect toleration, and thus made the contrast between Utopian and European practice in this respect all the more telling, so also was this the case in respect to the conduct of public worship.

The hatred of the Oxford Reformers for the endless dissensions of European Christians; the advice Colet was wont to give to theological students, "to keep to the Bible and the Apostles' Creed,





and let divines, if they like, dispute about the rest"; the appeal of Erasmus to Servatius, whether it would not be better for "all Christendom to be regarded as one monastery, and all Christians as belonging to the same religious brotherhood," — all pointed, if directed to the practical question of public worship, to a mode of worship in which all of every shade of sentiment could unite.

This might be a dream even then, while as yet Christendom was nominally united in one Catholic Church; and still more practically impossible in a country like Utopia, where men worshipped the Supreme Being under different symbols and different names, as it might be now even in a Protestant country like England, where religion seems to be the source of social divisions and castes rather than a tie of brotherhood, separating men in their education, in their social life, and even in their graves, by the hard line of sectarian difference. It might be a dream, but it was one worth a place in the dreamland of More's ideal commonwealth.

Temples, nobly built and spacious, in whose solemn twilight men of all sects meet, in spite of their distinctions, to unite in a public worship avowedly so arranged that nothing may be seen or heard which shall jar with the feelings of any class of the worshippers — nothing in which all cannot unite (for every sect performs its own peculiarites in private): no images, so that every one may represent the Deity to his own thoughts in his own way; no forms of prayer, but such as every one may use without prejudice to his own private opinion — a service so expressive of their common brotherhood that they think it a great impiety to enter upon it with a consciousness of anger or hatred to any one, without having first purified their hearts and reconciled every difference; incense and other sweet odors and waxen lights burned, not from any notion that they can confer any benefit on God, which even men's prayers cannot, but because they are useful aids to the worshippers; the men occupying one side of the temple, the women the other, and all clothed in white; the whole people rising as the priest who conducts the worship enters the temple in his beautiful vestments, wonderfully wrought of birds' plumage, to join in hymns of praise, accompanied by music; then priest and people uniting in solemn prayer to God in a set form of words, so composed that each can apply its meaning to himself, offering thanks for the blessings which surround them, for the happiness of their commonwealth, for their having embraced a religious persuasion which they hope is the most true one; praying that if they are mistaken they may be led to what is really the true one, so that all

may be brought to unity of faith and practice, unless in his inscrutable will the Almighty should otherwise ordain; and concluding with a prayer that, as soon as it may please Him, He may take them to Himself; lastly, this prayer concluded, the whole congregation bowing solemnly to the ground, and then, after a short pause, separating to spend the remainder of the day in innocent amusement — this was More's idea of public worship!

Such was the second book of the *Utopia*, probably written by More whilst on the embassy, toward the close of 1515, or soon after his return. Well might he conclude with the words, "I freely confess that many things in the commonwealth of Utopia I rather wish than hope to see adopted in our own!"

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## CHAPTER II

### ON THE EVE OF THE SEPARATION FROM ROME

THE state of religious opinion in England on the eve of the separation of the English Church from Roman authority is exceedingly difficult to determine. It is very hard, indeed, to state even the problems to be solved in the ascertainment of that condition. There is no way of knowing the number of men who were dissatisfied with the Church or its doctrines. It is often claimed, however, that the Church was steadily declining in authority, and that the growing dissatisfaction with the prevailing ecclesiastical policy would have soon broken England away from the Roman communion even if Henry VIII had not found an excuse for a quick and violent severance of the ancient ties. This view is given in the famous *History of England* by Mr. Froude, from which this extract is taken. An examination of the footnotes cited in the original volume itself gives an interesting insight into the nature of the evidence for the conclusions and into the methods employed by the author.

### § 1. *Changes Since the Day of Henry II*[1]

Times were changed in England since the second Henry walked barefoot through the streets of Canterbury, and knelt while the monks flogged him on the pavement in the Chapterhouse, doing penance for Becket's murder. The clergy had won the battle in the twelfth century because they deserved to win it. They were not free from fault and weakness, but they felt the meaning of their profession. Their hearts were in their vows; their authority was exercised more justly, more nobly, than the authority of the crown; and therefore, with inevitable justice, the crown was compelled to stoop before them. The victory was great; but, like many victories, it was fatal to the conquerors. It filled them full with the

[1] Froude, *History of England*, Vol. I, chap. ii.

vanity of power; they forgot their duties in their privileges; and when a century later the conflict recommenced, the altering issue proved the altering nature of the conditions under which it was fought. The laity were sustained in vigor by the practical obligations of life; the clergy sank under the influence of a waning religion, the administration of the forms of which had become their sole occupation; and as character forsook them, the mortmain act, the acts of præmunire, and the repeatedly recurring statutes of provisors mark the successive defeats that drove them back from the high post of command which character alone had earned for them.

If the Black Prince had lived, or if Richard II had inherited the temper of the Plantagenets, the ecclesiastical system would have been spared the misfortune of a longer reprieve. Its worst abuses would have then terminated, and the reformation of doctrine in the sixteenth century would have been left to fight its independent way unsupported by the moral corruption of the Church from which it received its most powerful impetus. The nation was ready for sweeping remedies. The people felt little loyalty to the pope, as the language of the statutes of provisors conclusively proves, and they were prepared to risk the sacrilege of confiscating the estates of the religious houses — a complete measure of secularization being then, as I have already said, the expressed desire of the House of Commons. With an Edward III on the throne such a measure would very likely have been executed, and the course of English history would have been changed. It was ordered otherwise, and doubtlessly wisely. The Church was allowed a hundred and fifty more years to fill full the measure of her offences, that she might fall only when time had laid bare the root of her degeneracy, and that faith and manners might be changed together.

### § 2. *The Church in the Fifteenth Century*

The history of the time is too imperfect to justify a positive conclusion. It is possible, however, that the success of the revolution effected by Henry IV was due in part to a reaction in the Church's favor; and it is certain that this prince, if he did not owe his crown to the support of the Church, determined to conciliate it. He confirmed the statutes of provisors, but he allowed them to sink into disuse. He forbade the further mooting of the confiscation project, and to him is due the first permission of the bishops to send heretics to the stake. If English tradition is to be trusted, the clergy still





felt insecure; and the French wars of Henry V are said to have been undertaken, as we all know from Shakspeare, at the persuasion of Archbishop Chichele, who desired to distract his attention from reverting to dangerous subjects. Whether this be true or not, no prince of the House of Lancaster betrayed a wish to renew the quarrel with the Church. The battle of Agincourt, the conquest and reconquest of France, called off the attention of the people; while the rise of the Lollards and the intrusion of speculative questions, the agitation of which has ever been the chief aversion of English statesmen, contributed to change the current; and the reforming spirit must have lulled before the outbreak of the Wars of the Roses, or one of the two parties in so desperate a struggle would have scarcely failed to have availed themselves of it. Edward IV is said to have been lenient toward heresy; but his toleration, if it was more than imaginary, was tacit only; he never ventured to avow it. It is more likely that in the inveterate frenzy of those years men had no leisure to remember that heresy existed.

The clergy were thus left undisturbed to go their own course to its natural end. The storm had passed over them without breaking, and they did not dream that it would gather again. The immunity which they enjoyed from the general sufferings of the civil war contributed to deceive them; and without anxiety for the consequences, and forgetting the significant warning which they had received, they sank steadily into that condition which is inevitable from the constitution of human nature, among men without faith, wealthy, powerful, and luxuriously fed, yet condemned to celibacy, and cut off from the common duties and common pleasures of ordinary life. On the return of a settled government they were startled for a moment in their security; the conduct of some among them had become so unbearable that even Henry VII, who inherited the Lancastrian sympathies, was compelled to notice it; and the following brief act was passed by his first Parliament, proving by the very terms in which it is couched the existing nature of church discipline. "For the more sure and likely reformation," it runs, "of priests, clerks, and religious men culpable, or by their demerits openly noised of incontinent living in their bodies, contrary to their order, be it enacted, ordained, and established, that it be lawful to all archbishops and bishops, and other ordinaries having episcopal jurisdiction, to punish and chastise such religious men, being within the bounds of their jurisdiction, as shall be convict before them, by lawful proof, of adultery, fornication, incest, or other fleshly incontinency, by committing

them to ward and prison, there to remain for such time as shall be thought convenient for the quality of their trespasses."

Previous to the passing of this act, therefore, the bishops, who had power to arrest laymen on suspicion of heresy, and detain them in prison untried, had no power to imprison priests, even though convicted of adultery or incest. The legislature were supported by the Archbishop of Canterbury. Cardinal Morton procured authority from the pope to visit the religious houses, the abomination of which had become notorious; and in a provincial synod held on the 24th of February, 1486, he laid the condition of the secular clergy before the assembled prelates. Many priests, it was stated, spent their time in hawking or hunting, in lounging at taverns, in the dissolute enjoyment of the world. They wore their hair long like laymen; they were to be seen lounging in the streets with cloak and doublet, sword and dagger. By the scandal of their lives they imperilled the stability of their order. A number of the worst offenders, in London especially, were summoned before the synod and admonished; certain of the more zealous among the learned (*complures docti*) who had preached against clerical abuses were advised to be more cautious, for the avoiding of scandal; but the archbishop, taking the duty upon himself, sent round a circular among the clergy of his province exhorting them to general amendment.

Yet this little cloud again disappeared. Henry VII sat too insecurely on his throne to venture on a resolute reform, even if his feelings had inclined him towards it, which they did not. Morton durst not resolutely grapple with the evil. He rebuked and remonstrated; but punishment would have caused a public scandal. He would not invite the inspection of the laity into a disease which, without their assistance, he had not the strength to encounter, and his incipient reformation died away ineffectually in words. The Church, to outward appearance, stood more securely than ever. The obnoxious statutes of the Plantagenets were in abeyance; their very existence, as it seemed, was forgotten; and Thomas à Becket never desired more absolute independence for the ecclesiastical order than Archbishop Warham found established when he succeeded to the primacy. He, too, ventured to repeat the experiment of his predecessor. In 1511 he attempted a second visitation of the monasteries, and again exhorted a reform; but his efforts were even slighter than Morton's, and in their results equally without fruit. The maintenance of his order in its political supremacy was of greater moment to him than its moral





purity; a decent veil was cast over the clerical infirmities, and their vices were forgotten as soon as they ceased to be proclaimed.

### § 3. *Henry VIII, Wolsey, and the Church*

Henry VIII, a mere boy on his accession, was borne away with the prevailing stream; and trained from his childhood by theologians, he entered upon his reign saturated with theological prepossessions. The intensity of his nature recognizing no half measures, he was prepared to make them the law of his life, and so zealous was he that it seemed as if the Church had found in him a new Alfred or a Charlemagne. Unfortunately for the Church, institutions may be restored in theory; but theory, be it never so perfect, will not give them back their life; and Henry discovered at length that the Church of the sixteenth century as little resembled the Church of the eleventh as Leo X resembled Hildebrand, or Warham resembled St. Anselm.

If, however, there were no longer saints among the clergy, there could still arise among them a remarkable man; and in Cardinal Wolsey the king found an adviser who was able to retain him longer than would otherwise have been possible in the course which he had entered upon; who, holding a middle place between an English statesman and a Catholic of the old order, was essentially a transition minister; and who was qualified, above all men then living, by a combination of talent, honesty, and arrogance, to open questions which could not again be closed when they had escaped the grasp of their originator. Under Wolsey's influence Henry made war with Louis of France, in the pope's quarrel, entered the polemic lists with Luther, and persecuted the English Protestants. But Wolsey could not blind himself to the true condition of the Church. He was too wise to be deceived with outward prosperity; he knew well that there lay before it, in Europe and at home, the alternative of ruin or amendment, and therefore he familiarized Henry with the sense that a reformation was inevitable, and dreaming that it could be effected from within, by the Church itself inspired with a wiser spirit, he himself fell the first victim of a convulsion which he had assisted to create, and which he attempted too late to stay.

His intended measures were approaching maturity when all Europe was startled by the news that Rome had been stormed by the imperial army, that the pope was imprisoned, the churches pillaged, the cardinals insulted, and all holiest things polluted

and profaned. A spectator, judging only by outward symptoms, would have seen at that strange crisis in Charles V the worst patron of heresy, and the most dangerous enemy of the Holy See; while the indignation with which the news of these outrages was received at the English court would have taught him to look on Henry as the one sovereign in Europe on whom that See might calculate most surely for support in its hour of danger. If he could have pierced below the surface, he would have found that the pope's best friend was the prince who held him prisoner; that Henry was but doubtfully acquiescing in the policy of an unpopular minister; and that the English nation would have looked on with stoical resignation if pope and papacy had been wrecked together. They were not inclined to heresy; but the ecclesiastical system was not the Catholic faith, and this system, ruined by prosperity, was fast pressing its excesses to the extreme limit, beyond which it could not be endured.

Wolsey talked of reformation, but delayed its coming, and in the meantime the persons to be reformed showed no fear that it would come at all. The monasteries grew worse and worse. The people were taught only what they could teach themselves. The consistory courts became more oppressive. Pluralities multiplied, and non-residence and profligacy. Favored parish clergy held as many as eight benefices. Bishops accumulated sees, and, unable to attend to all, attended to none. Wolsey himself, the church reformer (so little did he really know what a reformation meant), was at once Archbishop of York, Bishop of Winchester, of Bath, and of Durham, and Abbot of St. Albans. In Latimer's opinion, even twenty years later, and after no little reform in such matters, there was but one bishop in all England who was ever at his work and ever in his diocese. "I would ask a strange question," he said, in an audacious sermon at Paul's Cross, "Who is the most diligent bishop and prelate in all England that passeth all the rest in doing of his office? I can tell, for I know him who it is; I know him well. But now I think I see you listening and hearkening that I should name him. There is one that passeth all the others, and is the most diligent prelate and preacher in all England. And will ye know who it is? I will tell you. It is the devil. Among all the pack of them that have cure, the devil shall go for my money, for he applieth his business. Therefore ye unpreaching prelates, learn of the devil to be diligent in your office. If ye will not learn of God, for shame learn of the devil."

Under such circumstances, we need not be surprised to find

the clergy sunk low in the respect of the English people. Sternly intolerant of each other's faults, the laity were not likely to be indulgent to the vices of men who ought to have set an example of purity; and from time to time, during the first quarter of the century, there were explosions of temper which might have served as a warning if any sense or judgment had been led to profit by it. . . .

### § 4. *Complexity of Motives in Human Affairs*

It is never more difficult to judge equitably the actions of public men than when private as well as general motives have been allowed to influence them, or when their actions may admit of being represented as resulting from personal inclination, as well as from national policy. In life, as we actually experience it, motives slide one into the other, and the most careful analysis will fail adequately to sift them. In history, from the effort to make our conceptions distinct, we pronounce upon these intricate matters with unhesitating certainty, and we lose sight of truth in the desire to make it truer than itself. The difficulty is further complicated by the different points of view which are chosen by contemporaries and by posterity. Where motives are mixed, men all naturally dwell most on those which approach nearest to themselves; contemporaries whose interests are at stake overlook what is personal in consideration of what is to them of broader moment; posterity, unable to realize political embarrassments which have ceased to concern them, concentrate their attention on such features of the story as touch their own sympathies, and attend exclusively to the private and personal passions of the men and women whose character they are considering.

These natural, and to some extent inevitable, tendencies explain the difference with which the divorce between Henry VIII and Catherine of Aragon has been regarded by the English nation in the sixteenth and nineteenth centuries. In the former, not only did the Parliament profess to desire it, urge it, and further it, but we are told by a contemporary that "all indifferent and discreet persons" judged that it was right and necessary. In the latter, perhaps, there is not one of ourselves who has not been taught to look upon it as an act of enormous wickedness. In the sixteenth century, Queen Catherine was an obstacle to the establishment of the kingdom, an incentive to treasonable hopes. In the nineteenth, she is an outraged and injured wife, the victim of a false husband's fickle appetite. The story is a long and pain-

ful one, and on its personal side need not concern us here further than as it illustrates the private character of Henry. Into the public bearing of it I must enter at some length, in order to explain the interest with which the nation threw itself into the question, and to remove the scandal with which, had nothing been at stake beyond the inclinations of a profligate monarch, weary of his queen, the complaisance on such a subject of the lords and commons of England would have colored the entire complexion of the Reformation.

### § 5. *The Divorce and State Policy*

The succession to the throne, although determined in theory by the ordinary law of primogeniture, was nevertheless subject to repeated arbitrary changes. The uncertainty of the rule was acknowledged and deplored by the Parliament, and there was no order of which the nation, with any unity of sentiment, compelled the observance. An opinion prevailed — not I believe traceable to statute, but admitted by custom, and having the force of statute in the prejudices of the nation — that no stranger born out of the realm could inherit. Although the descent in the female line was not formally denied, no female sovereign had ever, in fact, sat upon the throne. Even Henry VII refused to strengthen his title by advancing the claims of his wife; and the uncertainty of the laws of marriage, and the innumerable refinements of the Romish canon law, which affected the legitimacy of children, furnished, in connection with the further ambiguities of clerical dispensations, perpetual pretexts, whenever pretexts were needed, for a breach of allegiance. So long, indeed, as the character of the nation remained essentially military, it could as little tolerate an incapable king as an army in a dangerous campaign can bear with an inefficient commander; and whatever might be the theory of the title, when the sceptre was held by the infirm hand of an Edward II, a Richard II, or a Henry VI, the difficulty resolved itself by force, and it was wrenched by a stronger arm from a grasp too feeble to retain it. The consent of the nation was avowed, even in the authoritative language of a statute, as essential to the legitimacy of a sovereign's title; and Sir Thomas More, on examination by the solicitor-general, declared as his opinion that Parliament had power to depose kings if it so pleased.

So many uncertainties on a point so vital had occasioned fearful episodes in English history; the most fearful of them, which had traced its character in blood in the private records of every Eng-





lish family, having been the long struggle of the preceding century from which the nation was still suffering and had but recovered sufficiently to be conscious of what it had endured. It had decimated itself for a question which involved no principle and led to no result, and perhaps the history of the world may be searched in vain for any parallel to a quarrel at once so desperate and so unmeaning. . . .

No effort of imagination can reproduce to us the state of this country in the fatal years which intervened between the first rising of the Duke of York and the battle of Bosworth, and experience too truly convinced Henry VII that the war had ceased only from general exhaustion, and not because there was no will to continue it. The first Tudor breathed an atmosphere of suspended insurrection, and only when we remember the probable effect upon his mind of the constant dread of an explosion can we excuse or understand, in a prince not generally cruel, the execution of the Earl of Warwick. The danger of a bloody revolution may present an act of arbitrary or cowardly tyranny in the light of a public duty.

Fifty years of settled government, however, had not been without their effects. The country had collected itself; the feuds of the great families had been chastened, if they had not been subdued; while the increase of wealth and material prosperity had brought out into obvious prominence those advantages of peace which a hot-spirited people, antecedent to experience, had not anticipated, and had not been able to appreciate. They were better fed, better cared for, more justly governed, than they had ever been before; and though abundance of unruly tempers remained, yet the wiser portion of the nation, looking back from their new vantage-ground, were able to recognize the past in its true hatefulness. Thenceforward a war of succession was the predominating terror with English statesmen, and the safe establishment of the reigning family bore a degree of importance which it is possible that their fears exaggerated, yet which in fact was the determining principle of their action.

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## CHAPTER III

### PARLIAMENT AND THE BREACH WITH ROME

After unsatisfactory negotiations with the pope for a decree of separation from Queen Catherine, Henry VIII in 1529 determined to bring still greater pressure to bear in the interest of his case. In that year he called the famous "Reformation Parliament," which was destined to last seven years and pass measure after measure until the dispute culminated in declaring Henry the supreme head of the English Church. The question as to whether this Parliament fairly represented the will of the nation constitutes a very important problem. If it did, there must have been a strong anti-papal sentiment on the eve of the ecclesiastical revolution. The fact, however, that many if not all of the great measures were prepared by royal favorites and promptly passed by Parliament has led some writers to regard it as no way representative of the nation, but a packed body constituting a servile tool of the king. Such is the view of Mr. Brewer in his *History of Henry VIII to the Fall of Wolsey.* On the other hand, Mr. Pollard in the tenth chapter of his volume on Henry VIII controverts this conclusion and maintains that the Reformation Parliament was fairly representative of the national will. It must be admitted, however, that it will take a far more detailed analysis of the history of that Parliament than has ever been made to settle finally this very complicated problem. Even Mr. Pollard admits that the Parliament would probably have been dissolved after a few weeks if Clement had granted the separation. But the pope would not or could not yield, and Parliament finally passed the last great acts which repudiated papal authority. A temperate and scholarly account of the work of this Parliament is to be found in Dixon's *History of the Church of England.*





## § 1. *The Act Relating to Annates, Bulls, and Election of Bishops* [1]

The houses met January 15, 1534. Scarce a third of the spiritual lords were present. Out of twenty-six abbots fourteen were away; and of the bishops none other appeared but Canterbury, London, Winchester, Lincoln, Bath and Wells, Llandaff, and Carlisle. During the session the preachers at Paul's Cross preached every Sunday against the authority of the pope in England, by order of the council.

Of the three great acts of the session which were directed against Rome, the first which passed bore the title of an act "for the restraint of annates," or "for the non-payment of firstfruits to the Bishop of Rome," but it was also called, when it first appeared, a "bill concerning the consecration of bishops." . . . In this, as in the other enactments regarding Rome, a less deferential style marked the growing alienation of the kingdom. The "pope's holiness" of former statutes was constantly henceforth "the Bishop of Rome, otherwise called the pope."

The body of the act may be briefly described. Whereas the act about annates which was made two years before, reserved certain payments for bulls procured from the See of Rome on the election of every bishop, this Act extinguished all such payments without reserve; it forbade bulls, breves, or any other thing to be procured from Rome, and confined the elections of bishops entirely within the kingdom. As to the form and manner of their election, it was least of all to be expected that the Church of England should have recovered now her long-lost liberty in this important particular; but the nominal freedom which she had enjoyed of old was not disturbed unnecessarily. From remote antiquity the theory had been that the prelates of churches and monasteries should be freely elected by chapters and convents, the election being afterwards confirmed by the consent of the king and the council of the realm. But this theory was rarely real, the kings in various ways generally contriving to overrule the elections, whether by nominating, investing, or signifying the candidate whom they preferred. The last formal settlement of the matter had been in the time of King John, who in one of his charters conceded that the election of all bishops and abbots should be free and canonical, the king's license to elect, or *congé d'élire*, being first procured.

[1] Dixon, *History of the Church of England*, Vol. I, pp. 180 ff. By permission of the Delegates of the Clarendon Press, Oxford.

But the charter of John was of no avail in protecting the liberty of the churches; and the last of the royal inventions had been to accompany the license to elect with a letter missive to signify to the chapter the person whom the king desired to be elected.

In the act which now passed, the old process of the license to elect, or *congé d'élire*, and the old abuse of royal nomination, in the shape of the letter missive, were both continued; but the latter was made part of the statute law of England for the first time. If the chapter failed to elect in a certain number of days, they were placed under a præmunire, and the king proceeded to fill the vacancy by simple nomination, without further regard to them. The bishop elect was to make his corporal oath to the king, and to none other.

### § 2. *The Act Concerning Papal Revenues from England*

This act was completed by another, "The act concerning Peter-pence and dispensations," called also "for the exoneration from exactions paid to the See of Rome," but which seems at first to have borne the franker title of "a bill for the abrogation of the usurped authority of the Roman pontiff." . . .

This was the statute which the lawyers describe as discharging the subject from all dependence on the See of Rome. It bore the form of a petition or supplication to the king, to whom it set forth the intolerable exactions which the Bishop of Rome, otherwise called the pope, and his chambers, which he called apostolic, took out of the realm, of usurpation and sufferance. There were "pensions, censes, Peter-pence, procurations, fruits, suits for provisions, and expeditions of bulls for archbishoprics and bishoprics, and for delegacies and rescripts in causes of contentions and appeals, jurisdictions legatine; and also for dispensations, licenses, faculties, grants, relaxations, writs called *perinde valere*, rehabilitations, abolitions, and other infinite sorts of bulls, breves, and instruments of sundry natures, names, and kinds, in great number," of which the catalogue seemed swollen by the zeal of recitation.

It was, however, no doubt true that the pope got much money out of England, more perhaps than from any other country; and that the English nation had been treated formerly by the popes with far less consideration than they deserved by their piety. The remonstrances of the English nation against the intolerable and incessant exactions of the pope had been heard even in the highest day of papal domination; all orders of men in the kingdom had





joined in these representations; and by the heads of the religious houses especially, the high pontiff had been warned that his conduct would eventually cause a schism. This ancient prediction was fulfilled at length; and from the venerable contribution known as Peter-pence down to the latest paper figment of the apostolic chamber, all payments to the See of Rome were swept away forever. It was declared that the realm was free from any laws of man, but such as had been devised within the same; and that it lay with the king and the Parliament, the "lords spiritual and temporal, and the commons, representing the whole state of the realm, in the most high court of Parliament," to abrogate, annul, alter, or diminish all such laws; and "not only to dispense, but also to authorize some elect person or persons to dispense with those and all other human laws of the realm, as the quality of the persons and matter should require."

### § 3. *Transference of Spiritual Jurisdiction*

The spiritual jurisdiction, therefore, which had been usurped by the See of Rome was transferred to the See of Canterbury. All licenses, dispensations, and other instruments which were needful were to be granted henceforth by the Archbishop of Canterbury, under restrictions which were elaborately specified in the act. The laborious language employed sufficiently indicates that the framers of the act understood and desired to maintain the distinction between the spiritualities of a bishop and his high priestly office: the former only were termed "human laws," subject to the control of the powers of the realm; and nothing pertaining to a bishop was regarded therein but that spiritual jurisdiction which can be exercised by that ecclesiastical officer, called "the guardian of the spiritualities," whom the law provides during the vacancy of a see.

It was this spiritual jurisdiction only which was, or could be, transferred from the Bishop of Rome to the Bishop of Canterbury, because it was this only which had been, or could have been, usurped by the Bishop of Rome. And therefore it could be added that the king, his nobles and subjects, intended not "to decline or vary from the congregation of Christ's Church in any things concerning the very articles of the Catholic faith of Christendom, or in any other things declared by Holy Scripture and the word of God necessary for their salvation; but only to make an ordinance by policies necessary to suppress vice and for the good conservation

of this realm in peace, unity, and tranquillity, from ravin and spoil, ensuing much the old ancient customs of this realm in that behalf: not minding to seek for any relief, succors, or remedies, for any worldly things or human laws in any cause of necessity, but within this realm, at the hands of his Highness, his heirs and successors, which had and ought to have an imperial power and authority in the same, and not obliged in any worldly causes to any other superior."

Indulgences and all manner of privileges, and the abuses of them, the fatal shame of Rome, were specially ordered to be reformed by the king in council. But the good that this act wrought was far outweighed by the evil. The true meaning and intent of it all was contained in the clauses by which all the exempt abbeys and monasteries were placed at the mercy of the king. The act, as we have seen, transferred a great deal of the spiritual jurisdiction usurped by the pope to the Archbishop of Canterbury. It might be supposed that it would have transferred to the Archbishop of Canterbury, among the rest, that important part of the pope's spiritual jurisdiction which related to the religious houses.

There were religious houses, abbeys, priories, colleges, and hospitals which were exempt from the jurisdiction of the English primate or any of his suffragans. They might not be visited by him, the election of their officers required no confirmation from him, their privileges and liberties were neither granted nor confirmed by his authority. They were dependent on the pope in regimen; and some of them — the various sorts of friars — were associated in congregations which held their assemblies out of the realm. There had been struggles in all times between these exempt communities and the ordinaries of the Church of England; and now that the authority of their foreign superior was being taken away, it seemed the proper thing to place them under the control of the English primates and bishops.

Instead of which, there was a provision made that neither "the Archbishop of Canterbury, nor any other person or persons," should have power to "visit or vex" them. That dangerous jurisdiction was to be intrusted to the tenderer hands of the king, and of such persons as the king might appoint by commission under the great seal. The confidence which his Parliament reposed in the king was indeed visibly increasing. The servile spirit which soon afterwards surrendered the safety of the subject by the act about verbal treason, and betrayed the constitution itself in the

act of proclamations, was manifested almost as strikingly in this act also. With the humility of a Roman senate towards a Roman emperor, the Parliament of England ordained that if the king wished their act to take effect earlier than they had fixed, or if he chose to annul the whole or part of it before it took effect, he might issue his letters patent in those behalfs.

### § 4. *The Act for the Submission of the Clergy and Restraint of Appeals*

The submission of the clergy had been already extorted from convocation under the severe pressure of tyranny, and appeals to Rome had been already abrogated in order to deprive the dowager-princess of her last resource. To invest the one with the force of statute, to confirm the other by a new enactment, and join the two together in a single act of Parliament, was to raise a legislative monument which should eternally proclaim the causes and the nature of the English Reformation. . . .

This was the "act for the submission of the clergy, and restraint of appeals." It was ordained that the clergy, according to their submission, were neither to execute their old canons or constitutions nor make new ones, without the assent and license of the king, on pain of imprisonment and fine at the royal pleasure; that their convocations were only to be assembled by the authority of the king's writ; that the king should have power to nominate two and thirty persons, sixteen of the spirituality and sixteen of the temporalty, to revise the canons, ordinances, and constitutions provincial; and that in the meantime such of the canons which were not contrariant to the laws of the realm, nor prejudicial to the prerogative royal, should still be used and executed as heretofore.

The flame of controversy has raged round every letter of this celebrated act: how far it forbade or permitted the clergy to move, to treat, to debate, or to legislate in their assemblies; whether it respected one kind of convocation or more; and whether there were more than one kind of convocation which it could respect: these and other questions have been disputed with more than the usual acrimony of theological warfare, and with incredible closeness of research. But for the purposes of history it is enough to observe that the intention of the act was to discourage the clergy from debating, not less clearly than to forbid them to make new ecclesiastical laws without the king. They could never be certain

at what point of their proceedings the king's authority and license might be needful; how far they might go without it; what kind of matter might require it and what not. All was left undetermined; and if they attempted anything whatever, they might find themselves clapped into prison and heavily fined, as having fallen into a præmunire.

As for the plan of examining and revising the old canons and constitutions by a commission of thirty-two persons, this was never carried out. The king seems indeed to have nominated them; but he took no further notice of them or their work; and the ecclesiastical laws meantime remained in abeyance. It is true indeed that there was a provision added to the act, that those canons which were not contrariant to the laws of the realm and the prerogative of the king should be executed as heretofore, until the proposed revision should be made; but who was to determine which of the canons were meant? And who was to define a prerogative royal which was growing greater every day? The clergy might perhaps have shown that none of their canons were repugnant to the laws of the realm, if it had ever come to that; but they could never have been safe against the royal prerogative. We find the bishops, in their uncertainty after the passing of the act, taking out licenses for the execution of their functions as ordinaries of the Church. We shall find this commission of thirty-two again and again promoted by act of Parliament in the course of the Reformation, and again and again brought to naught. What came of it eventually will be seen in due time. With regard to appeals, the act confirmed the measure of the year before in transferring them from Rome to Canterbury and the other archsees of England; but it gave a further and final appeal from the archbishops into the court of chancery. And it so happened that monasteries and other places exempt were here again excepted from the general tenor of the law. The appeals from all such places which were wont to be made to Rome were ordered not to be made to the archbishops, but immediately into chancery. Thus was the axe laid to the root of the monastic tree. . . .

### § 5. *The King Made Supreme Head of the Church*

After an unusually short interval the houses of Parliament assembled again in the beginning of November. Their first act was to declare that the king ought to have the title and style of supreme head of the Church of England. The brief declaration





in which this was embodied was of little more than formal importance. It neither made, nor professed to make, any change in the constitution. The king was already supreme head of the Church of England, and the act began by saying that he was so already. The king had been already acknowledged by the clergy of the realm in their convocations to be the supreme head of the Church of England, and the act went on to rehearse that the clergy had acknowledged him already. But it seemed desirable "for increase of virtue in Christ's religion, and to repress and extirpe all errors, heresies, and other enormities and abuses," to authorize him to have the title and "all honors, dignities, preëminences, jurisdictions, privileges, authorities, immunities, profits, and commodities" belonging thereto.

The honors and dignities, it may be observed, he had already, because he was supreme head; the jurisdictions, privileges, authorities, and immunities which were usurped by foreign power had already been restored severally; and with them the profits and commodities which pertained to the same high office of right. But the houses of Parliament meant to augment very largely the profits and commodities, if they added nothing to the dignity of the head of the realm by a mere declaration of his title. The king, they added, was to have power and authority "to visit and reform errors, heresies, contempts, and offences." He had such power already as the supreme ordinary, and could have exercised it at any time through his spiritual officers; and in a constitutional point of view the clause which thus empowered him was merely declaratory, like the other parts of the act. But it was a declaration made with a terrible intention. He took the advantage it was meant to afford, and proceeded to ruin the monasteries, and half ruin the Church, for his own profits and commodities.

### § 6. *Disposition of the Firstfruits*

It has been seen that when the clergy, two years before, acknowledged the king for their supreme head, they represented the distress to which they were reduced by the papal exactions of annates, or firstfruits, and petitioned him for the abolition of these oppressive impositions. Now that the lords and commons in their turn acknowledged the king for their supreme head, they celebrated the occasion by annexing the firstfruits of all spiritual promotions to the crown. It might have seemed proper, since the pope was gone, that his exactions should go after him. But the

profits and commodities of the supreme head were to be augmented. . . .

The penalty for default of payment of the tenths was deprivation. The charge of collecting them was thrown upon the bishops. This seemed a ready mode of discharging the inestimable obligations which his Majesty's faithful subjects assembled owned so copiously. Some grains of mercy were added. No firstfruits were to be taken from a living of less than eight marks a year, unless the incumbent remained in it above three years from his presentation; but if he lived in it so long as that, firstfruits were to be levied. The fifth part of the enormous fine which the clergy had incurred under the præmunire two years before was remitted, in consideration of the yearly payments which they were henceforth required to make. To prevent the act from cutting both ways, another act was passed. There were many lands belonging to spiritual owners which were let, it might be, to temporal persons. Therefore, "for certain reasonable and urgent considerations moving the king's high court of Parliament," it was ordained that the farmers or lessees of such lands should not be liable to pay firstfruits or tenths on them; but that the payment should fall on the spiritual owners.

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## CHAPTER IV

### THE MAINTENANCE OF THE NEW ESTABLISHMENT

THERE is, perhaps, no page in English history more tragical than that on which is recorded the trial and execution of Fisher and More and those who could not accept the new order established by the Reformation Parliament. Even the heroic efforts of Mr. Froude to justify the new policy on grounds of state, if regarded as successful, cannot obscure the real character of the men who helped to make those great historical events. The subsequent destruction of the monasteries and peculiar disposal of the lands wrested from the religious houses give us an insight into the spirit and methods employed by Henry VIII and his servants. A brief account of this period by a distinguished scholar is to be found in Gairdner, *History of the English Church in the Sixteenth Century.*

### § 1. *The Execution of the Charterhouse Monks*[1]

On January 15, 1535, an order was made in council that the title "on earth supreme head of the Church of England" should be added to the king's style. It was a title that shocked deeply religious minds — even Luther in Germany could not stomach it. But, as the king himself always declared, it conveyed no new powers and he was right. A temporal sovereign must always be supreme even over the Church within his kingdom. How far he may abuse his powers, is another question.

Thomas Cromwell, who for some months had been the king's chief secretary and master of the rolls, on January 21 received a commission for a general visitation of the churches, monasteries, and clergy throughout the kingdom. On the 30th commissions

[1] Gairdner, *A History of the Church of England in the Sixteenth Century*, chap. ix. By permission of The Macmillan Company, Publishers.

were issued for the different parts of the kingdom for a general valuation of benefices, that they might be taxed for firstfruits and tenths. The bishops were also compelled to surrender their bulls from Rome, and in the course of the next few months express renunciations of papal jurisdiction were obtained from each under their several seals.

To strengthen his hands, Cromwell was appointed the king's vicar-general or vicegerent in spiritual things, and Cranmer and the bishops took their orders from him, especially about having the king's supremacy preached within their dioceses. The greater part of the clergy and bishops resigned themselves to the new state of affairs, which many thought so forced and artificial that it could not possibly last long. But the expression even of this belief was dangerous, and the clergy stood in dread of informers. In April, orders were sent out for the arrest of all who maintained "the Bishop of Rome's" jurisdiction or prayed for him in the pulpit as pope; and in the same month the new acts of supremacy and succession were first brought to bear on a little company composed mainly of Charterhouse monks, accused of treason. Their names were John Houghton, prior of the London Charterhouse, Augustine Webster and Robert Lawrence, heads of the two Charterhouses of Axholme in Lincolnshire and Beval in Notts; Dr. Richard Reynolds of the Bridgettine monastery of Sion, and John Hale, vicar of Isleworth. Along with these was also accused a young priest, named Robert Feron of Teddington, who saved his skin and earned a pardon after condemnation by revealing conversations between himself and Hale. In these private utterances, Hale had spoken of the king as a cruel tyrant and robber of the commonwealth and commented on his gross profligacy, of which his second marriage was the shameful consummation. He was compelled to ask forgiveness for what he had said both of the king and Queen Anne, and could only plead in excuse that he had uttered the scandals against the king on information given him by another person. He gave the name of his informant, who was in fact one of his own accusers, but it does not appear that the latter was made to suffer for statements which, flagrant as they were, no doubt were strictly true.

Prior Houghton, as we have seen, had already been in the Tower, and had obtained his release on terms which he was convinced would only be held sufficient for a time. The new acts passed in November, he knew well, would bring further trials, and while he and his convent were strengthening themselves against evil to

come, they received as guests the two priors from the country, Lawrence and Webster, each of whom had come up independently to visit the brethren in London. They and Prior Houghton took counsel together on the situation and resolved to forestall the coming of the king's commissioners to the monastery by a visit to Cromwell to urge that the brethren should not be pressed for any further oaths. Needless to say such persuasions were in vain, and the two country priors only involved themselves prematurely in the dangers of their London brethren. On April 20 they appeared before Cromwell at the rolls, and were asked whether they would obey the king as the supreme head of the Church of England. They replied that they could not acknowledge him as such and were forthwith sent to the Tower, where they and Prior Houghton and Dr. Reynolds were visited six days later by Cromwell and other councillors to induce them to comply with the act, but they still refused. On the 28th they were all, including Hale and Feron, brought to trial at Westminster, before a special commission with the Duke of Norfolk at the head. Dr. Reynolds made a singularly bold and able defence. Next day, after much solicitation made to them to recant, they were found guilty and the dreadful sentence for treason was passed upon them. On May 4 it was carried out with even more than usual brutality, the men being ripped up in each other's presence, their arms torn off, and their hearts rubbed upon their mouths and faces.

The world was horrified. The crime was a new one, and besides the barbarity of the execution there was an additional novelty in the fact that priests were made to expiate a civil crime without having been previously degraded from the priesthood. No such feeling was aroused when a month later (on June 4) two Dutch Anabaptists, a man and a woman, were burned at Smithfield, and twelve others were despatched to meet a like fate in other towns. That sect had for more than a year occasioned much trouble at Münster, where they were even now besieged by their bishop. Their views, which, beside rebaptism and a good deal of strange theology, included also community of goods, had been largely disseminated in Westphalia and Holland, and had now overflowed into England. Twenty-five of these Dutch heretics, nineteen men and six women, were examined in St. Paul's Church on May 25, and fourteen of them were condemned with the results just stated. The others were reconciled to the Church and sent back to the Low Countries to be dealt with as Mary of Hungary saw fit.

### § 2. *Fisher and More*

But the fate of such victims seems almost unimportant compared with the cruelties inflicted on the most noble of the king's own subjects. Other prisoners in the Tower were now informed that they must swear to the recent statutes to avoid the fate of the Carthusians. These were Bishop Fisher and Sir Thomas More, Dr. Nicholas Wilson, once the king's confessor, Thomas Abell, who had been chaplain to Queen Catherine, and Richard Fetherstone, the Princess Mary's schoolmaster. Six weeks were given them to make up their minds, but they all replied that they were ready to die at once rather than acknowledge the king's supremacy. Meanwhile the news came to England that on May 20 Pope Paul III had made Bishop Fisher a cardinal; at which Henry was more enraged than ever, and declared that he would send his head to Rome to receive the hat.

Cromwell, with some others of the council, had already paid a visit to Fisher in the Tower on May 7 to examine him on certain subjects, the first of which was the king's supremacy. Cromwell read to him a copy of the act, but he replied that he could not agree to take the king as supreme head of the Church. Cromwell then read to him another act, making it treason to deny the supremacy; but he was already aware of its contents. In fact, he had been informed in the beginning of February that a new statute had just come into operation (the date February 1 was fixed in the act itself) by which a number of new offences had been created treason, and, among other things, any attempt by word or writing to deprive the king or queen of any of their titles. This, of course, included the title of "supreme head" and it is a fact that even that subservient House of Commons refused to pass the bill without inserting the word *maliciously*, in the hope, apparently, that inoffensive persons who objected to the new title would be shielded from the rigor of the law. But Sir Thomas More warned his fellow-prisoner Fisher not to attach too much importance to the insertion of this word. He knew too well the way in which laws regarding treason were construed to believe that it afforded the smallest protection to the accused.

As Rome was bent on rewarding Bishop Fisher for disowning royal supremacy, Henry saw that mere threats would be insufficient to make his new title respected. On June 14 four clergymen of the king's council, with a notary and some other officials,





visited Fisher and More separately in the Tower and took down their answers to three interrogatories prepared beforehand. These were, — whether they would obey the king as head of the church, acknowledge the validity of his marriage with Anne and the invalidity of that with Catherine, and why they would not answer explicitly. More declined to answer any of these questions. Fisher stood by his refusal of the supremacy, which he offered to justify more fully; but as to the king's marriages, he could only promise to obey and swear to the act of succession without saying more.

On June 11 an indictment was found against Bishop Fisher and three of the monks of the London Charterhouse, whom the fate of their prior had not terrified into submission. The names of these brethren were Humphrey Middlemore, William Exmewe, and our friend, Sebastian Newdigate. The clerk of the council, Thomas Bedyll, had visited the Charterhouse on the very day of the prior's execution, and after a long discussion had left some books of his own and others' composition against the pope's primacy. These the brethren returned next day without comment, and afterwards owned that they saw nothing in them to alter their opinions. Some of the other brethren, perhaps, might not be so steadfast, and another visitor, John Whalley, conceived that a little preaching might bring them over. But the three were summoned to Stepney on May 25 apparently before Cromwell and flatly refused to accept the king's supremacy. For this they received the sentence as traitors, and on the 19th they were hanged and quartered at Tyburn. Meanwhile on the 17th the venerable Bishop Fisher was brought to his trial at Westminster and received sentence under the same law. On the 22nd he was beheaded on Tower Hill and buried in the neighboring church of All Hallows Barking. The king apparently thought it not wise to let him be quartered or disembowelled, for the sympathy of the people with the sufferer was unmistakable.

More's time soon followed. He was brought to his trial on July 1. His caution in persistently refusing to answer dangerous questions did not serve to protect him. He had never expressly denied the king's supremacy, and had always avoided the subject, but it was found that he had sent letters to Fisher in prison comparing the act of Parliament to a two-edged sword, and Fisher had used the same comparison when examined by the lord chancellor in the Tower. If a man answered one way, this two-edged sword would confound his soul; if the other way, it would confound

his body. What this meant was pretty plain. Other things were also found out about their private communications, tending to involve More in Fisher's treason; and the better to insure a conviction, Rich, the solicitor-general, had visited him in the Tower, and drawn him into a conversation about the authority of acts of Parliament to show that he recognized some limitation in obedience to them. This was no doubt the case. But the account of their conversation given by Rich was so entirely false, that More not only corrected it by giving the true story, but charged Rich with perjury in open court. He conducted his own defence with all the astuteness that might have been expected in such an able lawyer; but he was found guilty under the new law. Then, his tongue being loosed, he spoke his mind freely, declaring that he had studied the subject of the statute for seven years, and could find no good authority to maintain that a temporal man might be the head of a spirituality. On this he was interrupted by the chancellor, and a conversation followed in court in which the Duke of Norfolk also took part. But More certainly held his own, and ended by hoping that as St. Paul and St. Stephen whom Paul persecuted were now friends in heaven, it might be the same with him and his judges. No man ever met an unjust doom in a more admirable spirit.

He was conveyed to the Tower, where on the wharf his favorite daughter, Margaret Roper, broke through the line of guards and took a last embrace of her father. The spectators were surprised and spellbound. When More found breath to speak, he bade her have patience, for she knew his mind. From his dungeon afterwards he wrote to her with a coal, the only writing instrument he was allowed: "Dear Meg. I never liked your manner towards me better than when you kissed me last. For I like when daughterly love and dear charity hath no leisure to look to worldly courtesy." On July 6 he was beheaded on Tower Hill. . . .

### § 3. *Visitations of the Monasteries*

The Church of England was thus left under the absolute control of Henry, so far as its external polity was concerned. A royal visitation of the churches and monasteries had been contemplated for some time, and Cromwell had been already named in January as the instrument by which it should be effected. But no particular steps were taken to carry out the idea until the summer. The bishops stood in the way, many of whom were holding their own





visitations at the time, and were not inclined to give up the last vestige of their independence. In June it was suggested to Cromwell by Dr. Richard Layton, one of the clerks of the council (who had examined More and Fisher in the Tower) that he and a certain Dr. Thomas Legh (who had examined one of Fisher's servants) might be appointed his commissaries for the visitation of the north country from the diocese of Lincoln to the borders of Scotland, for they had friends everywhere in those parts who would enable them to detect abuses. This was not conceded at once; but in July, having accompanied Cromwell and the court into Gloucestershire, Layton was allowed to make a beginning in the visitation of monasteries only, taking those in that district first, while his friend, Dr. Legh started on a similar mission at Worcester, accompanied by a notary named John Ap Rice. The methods of these two visitors differed somewhat, and Legh actually visited the monastery of Bruton after Layton had visited it already; but neither of them seems to have been very scrupulous, and though abuses no doubt existed in some monasteries, it is impossible to suppose they were so flagrant or so general as their reports imply.

From Bath and Bristol Layton proceeded to Oxford, where he instituted new lectures, abolished the study of canon law, and committed shameful havoc in the destruction of the works of Duns Scotus. He then passed on into Surrey, Sussex, and Kent, where he caused two small monasteries at Folkestone and Dover to surrender, and returned towards the end of the year to London, in the neighborhood of which he and Bedyll did their best to coerce the remaining brethren of Sion into accepting the king's new title. His colleague, Legh, meanwhile passed through Wiltshire, Hampshire, Berkshire, Surrey, and from thence by Bedfordshire to Cambridge where, in October, he visited the university (of which Cromwell had just been made chancellor in the room of Bishop Fisher), leaving a set of injunctions for its future government.

Both visitors had professed to discover a great amount of foulness in most of the monasteries they visited, besides superstitious relics. But Legh was foremost in a policy of laying down severe regulations for the monks, binding them by antiquated restrictions which it had long been impossible to maintain. And this policy, he frankly told Cromwell in his letters, would be useful in making monks sue to him for dispensations from rules which, even in the interest of the houses themselves, required occasionally to be set aside. But he and his colleague, John Ap Rice, struck out

a still bolder course, and suggested to Cromwell that as the bishops disliked interference with their visitations, they should be compelled to acknowledge that they held their jurisdiction merely from the king, who was therefore free to resume it into his own hands; for if they were allowed to exercise it without interruption, they would do so according to the canon law which was now abolished. This advice was taken, and the bishops in the beginning of October received orders to suspend their visitations pending the royal visitation to be held under the direction of Cromwell as vicar-general.

Legh and Layton, then, having traversed by different routes a large part of the south of England, met before the end of the year at Lichfield and visited Yorkshire and the northern monasteries in company. Here, as in the south, their objects were to inquire partly as to the revenue of the houses, and how far they were burdened with debt, partly as to pilgrimages, relics, and superstitions, but most of all as to the immoralities practised by the inmates. They had transmitted piecemeal reports of what they called their *comperta* in the southern houses to Cromwell. For the province of York and the bishopric of Coventry and Lichfield they made up a *compendium compertorum* of the most extraordinary foulness, similar to one drawn up by Ap Rice from the records of Legh's visitation for the diocese of Norwich. If we are to believe these "comperts" (so the word was Anglicized in a subsequent act of Parliament), a large proportion of the monasteries of England were little better than brothels. There were even nuns who had had children, and in several instances by priests. Some of these cases may be accounted for by the fact that ladies had found retreats in religious houses after personal misfortune and disgrace, and no doubt there were other scandals here and there. But there are grave reasons for suspecting the whole of these "comperts" to be a gross exaggeration. Nor can we well believe that visitors cared much about the truth, who did their work so hurriedly. Certain it is that many of the houses which stood worst in their reports were afterwards declared to bear a fair character by gentlemen of the neighborhood specially commissioned to report on them for other purposes. Moreover, we know that the visitors' reports to Cromwell were secret and had a distinct object in view, to be mentioned presently.

Cromwell himself had conducted some visitations personally while travelling about with the king in the autumn of 1535. He had made inventories of the goods of such monasteries as came





in his way, and had turned out all monks or nuns who had made their profession before they were twenty-five, letting the rest know that they were free either to go or remain, as a very rigorous reformation was at hand. Measures like these, however, did not tend to improve the discipline of the monasteries, which the royal visitation altogether was admirably calculated to destroy, encouraging monks to turn informers, while heads of houses were harassed in a way to make them weary of their charge and anxious to surrender.

### § 4. *The Dissolution of the Smaller Monasteries*

Legh and Layton concluded their work in February, 1536, when Henry's "Long Parliament" had met again for its last session. The principal measure laid before it was one for the dissolution of monasteries under £200 a year in value. By what pressure the consent of the two houses was obtained to this measure it might be rash to affirm, although it is certain that the king had intended to forbid the attendance of the abbots this session, and there is a remarkable tradition recorded by Spelman of a royal threat which intimidated the House of Commons. But the words of the act itself are suggestive. The preamble states that carnal sin and abominable living were usual in small monasteries with less than twelve inmates. So it is said the king had ascertained by the "comperts" of his late visitations, and "by sundry credible informations," and the only reformation possible was to suppress such houses entirely and transfer the inmates to large houses, where religion, happily, was well preserved. Writers of a later generation speak of a certain "Black Book" supposed to have been produced in this Parliament, which contained a register of monastic enormities; but there is no appearance that any document of the kind ever existed except the *compendium comperto-rum*, and certainly this, in which some of the largest monasteries were the worst defamed, affords no warrant for the extraordinary insinuation that vice prevailed invariably where the numbers fell below twelve, and that the great monasteries were better regulated. So it is evident that the Parliament took the king's word as to the character of the disclosures, and passed the bill because they were required to do so. Nothing else alleged to have been discovered in the monasteries could really have gone before Parliament or the public except certain vague statements that immoralities were practised in a large number of houses.

## § 5. *The Death of Catherine*

But before this parliamentary session had begun — before the visitors had ended their labors in the north, and while the king's ambassadors in Germany were still discussing theology with Protestant divines — an event occurred which made a sensible change in the situation. Catherine of Aragon, after nearly four years' separation from her husband, died at Kimbolton on January 7, 1536. A pathetic story which has gained too much credit with historians says that at the last she wrote a touching letter to Henry, which drew tears into his eyes when he read it. Facts, unhappily reported at the time in confidential despatches by Chapuys, show that the tale is pure invention. Catherine, for her part, could not have written such a letter; for she had long been obliged to yield to the painful conviction that her husband had become utterly hardened and unscrupulous. And the news of her death gave him a satisfaction that he was at no pains to conceal. "God be praised," he said; "we are now free from all fear of war." Next day he clothed himself in yellow and danced with the ladies of his court like one mad with delight.

### Bibliographical Note

The great work on the dissolution of the monasteries is Gasquet, *Henry VIII and the English Monasteries*. For a full and scholarly account of Cromwell and his work, consult Merriman, *Thomas Cromwell*. On all the points discussed in the above extract, compare the views and accounts given by Froude, *History of England*, and Pollard, *Henry VIII*.



# CHAPTER V

## THE ORIGIN OF THE DOCTRINAL REVOLT

DR. JOHN CLARK, in presenting to the pope Henry VIII's book against Luther, doubtless spoke truly when he declared that England "has never been behind other nations in the worship of God and the Christian faith, and in obedience to the Roman Church." In spite of attempts to demonstrate that the influence of Wycliffe's teachings was widespread and that there was a steady increase of heretical opinion in England before the Act of separation from the Roman Church, the evidence so far adduced has not been very conclusive. The king and Parliament, whether representing national will or not, were just as anxious to punish those who attempted to bring about changes in doctrine as those who retained their allegiance to the pope. It seems, therefore, that the distinguished Catholic writer, Dr. Gasquet, is quite sound in his contention that we should look to Luther rather than to Wycliffe as the source of the dogmatic revolution; but it must be admitted that English Protestant theologians in the sixteenth century were influenced by the study of Wycliffe's writings.

### § 1. *Religious Discontent and Lollardry*[1]

It is not uncommonly asserted that the religious changes in England, although for convenience' sake dated from the rejection of papal supremacy, were in reality the outcome of long-continued and ever increasing dissatisfaction with the then existing ecclesiastical system. The pope's refusal to grant Henry his wished-for divorce from Catherine, we are told, was a mere incident, which at most precipitated by a short while what had long been inevi-

[1] Gasquet, *The Eve of the Reformation*, 1st edition, pp. 208 ff. By permission of Dr. Francis A. Gasquet.

table. Those who take this view are bound to believe that the Church in England in the early sixteenth century was honeycombed by disbelief in the traditional teachings, and that men were only too ready to welcome emancipation. What, then, is the evidence for this picture of the religious state of men's minds in England on the eve of the Reformation?

It is, indeed, not improbable that up and down the country there were, at this period, some dissatisfied spirits; some who would eagerly seize any opportunity to free themselves from the restraints which no longer appealed to their consciences, and from teachings they had come to consider as mere ecclesiastical formalism. A Venetian traveller of intelligence and observation, who visited the country at the beginning of the century, whilst struck with the Catholic practices and with the general manifestations of English piety he witnessed, understood that there were "many who have various opinions concerning religion." But so far as there is evidence at all, it points to the fact, that, of religious unrest, in any real sense, there could have been very little in the country generally. It is, of course, impossible to suppose that any measurable proportion of the people could have openly rejected the teaching of the Church or have been even crypto-Lollards, without there being satisfactory evidence of the fact forthcoming at the present day.

The similarity of the doctrines held by the English reformers of the sixteenth century with many of those taught by the followers of Wycliffe has, indeed, led some writers to assume a direct connection between them which certainly did not exist in fact. So far as England at least is concerned, there is no justification for assuming for the Reformation a line of descent from any form of English Lollardism. It is impossible to study the century which preceded the overthrow of the old religious system in England without coming to the conclusion that as a body the Lollards had been long extinct, and that as individuals, scattered over the length and breadth of the land, without any practical principle of cohesion, the few who clung to the tenets of Wycliffe were powerless to effect any change of opinion in the overwhelming mass of the population at large. Lollardry, to the Englishman of the day, was "heresy," and any attempt to teach it was firmly repressed by the ecclesiastical authority, supported by the strong arm of the State; but it was also an offence against the common feeling of the people, and there can be no manner of doubt that its repression was popular. The genius of Milton enabled him to see the fact

that "Wycliffe's preaching was soon damped and stifled by the pope and prelates for six or seven kings' reigns," and Mr. James Gairdner, whose studies in this period of our national history enable him to speak with authority, comes to the same conclusion. "Notwithstanding the darkness that surrounds all subjects connected with the history of the fifteenth century," he writes, "we may venture pretty safely to affirm that Lollardry was not the beginning of modern Protestantism. Plausible as it seems to regard Wycliffe as 'the morning star of the Reformation,' the figure conveys an impression which is altogether erroneous. Wycliffe's real influence did not long survive his own day, and so far from Lollardry having taken any deep root among the English people, the traces of it had wholly disappeared long before the great revolution of which it is thought to be the forerunner. At all events, in the rich historical material for the beginning of Henry VIII's reign, supplied by the correspondence of the time, we look in vain for a single indication that any such thing as a Lollard sect existed. The movement had died a natural death; from the time of Oldcastle it sank into insignificance. Though still for a while considerable in point of numbers, it no longer counted among its adherents any men of note; and when another generation had passed away the serious action of civil war left no place for the crotchets of fanaticism."

On the only evidence available, the student of the reign of Henry VII and of that of Henry VIII up to the breach with Rome is bound to come to the same conclusion as to the state of the English Church. If we except manifestations of impatience with the pope and curia, which could be paralleled in any age and country, and which were rather on the secular side than on the religious, there is nothing that would make us think that England was not fully loyal in mind and heart to the established ecclesiastical system. In fact, as Mr. Brewer says, everything proves that "the general body of the people had not as yet learned to question the established doctrines of the Church. For the most part, they paid their Peter-pence and heard mass, and did as their fathers had done before them."

### § 2. *Luther and his English Followers*

It may be taken, therefore, for granted that the seeds of religious discord were not the product of the country itself, nor, so far as we have evidence on the subject at all, does it appear that the soil of

the country was in any way specially adapted for its fructification. The work, both of raising the seed and of scattering it over the soil of England, must be attributed, if the plain facts of history are to be believed, to Germans and the handful of English followers of the German Reformers. If we would rightly understand the religious situation in England at the commencement of the Reformation, it is of importance to inquire into the methods of attack adopted in the Lutheran invasion, and to note the chief doctrinal points which were first assailed.

Very shortly after the religious revolt had established itself in Germany, the first indications of a serious attempt to undermine the traditional faith of the English Church became manifest in England. Roger Edgworth, a preacher during the reigns of Henry and Queen Mary, says that his "long labors have been cast in most troublesome times and most encumbered with errors and heresies, change of minds and schisms that ever was in the realm. . . . Whilst I was a young student in divinity," he continues, "Luther's heresies rose and were scattered here in this realm, which, in less space than a man would think, had so sore infected the Christian folk, first the youth and then the elders, where the children could set their fathers to school, that the king's Majesty and all Christian clerks in the realm had much ado to extinguish them. This they could not so perfectly quench, but that ever since, when they might have any maintenance by man or woman of great power, they burst forth afresh, even like fire hid under chaff."

### § 3. *Protestant Literature in England*

Sir Thomas More, when chancellor in 1532, attributed the rapid spread of what to him and most people of his day in England was heresy, to the flood of literature which was poured forth over the country by the help of printing. "We have had," he writes, "some years of late, plenteous of evil books. For they have grown up so fast and sprung up so thick, full of pestilent errors and pernicious heresies, that they have infected and killed, I fear me, more simple souls than the famine of the dear years have destroyed bodies."

We are not left in ignorance as to the books here referred to, as some few years previously the bishops of England had issued a list of the prohibited volumes. Thus, in October, 1526, Bishop Tunstall ordered that in London people should be warned not to read the works in question, but that all who possessed them should





deliver them over to the bishop's officials in order that they might be destroyed as pernicious literature. The list included several works of Luther, three or four of Tyndale, a couple of Zwingli, and several isolated works, such as the *Supplication of Beggars*, and the *Dyalogue between the Father and the Son.*

In 1530 the king by proclamation forbade the reading or possession of some eighty-five works of Wycliffe, Luther, Œcolampadius, Zwingli, Pomeranus, Bucer, Wesselius, and indeed the German divines generally, under the heading of "books of the Lutheran sect or faction conveyed into the city of London." Besides these Latin treatises, the prohibition included many English tracts, such as *A Book of the Old God and the New*, *The Burying of the Mass*, Frith's *Disputation concerning Purgatory*, and several prayer-books intended to propagate the new doctrines, such as *Godly Prayers, Matins and Evensong, with the Seven Psalms and Other Heavenly Psalms with Commendations*, the *Hortulus Animæ* in English, and the *Primer* in English.

In his proclamation Henry VIII speaks of the determination of the English nation in times past to be true to the Catholic faith and to defend the country against "wicked sects of heretics and Lollards, who, by perversion of Holy Scripture, do induce erroneous opinions, sow sedition amongst Christian people, and disturb the peace and tranquillity of Christian realms, as lately happened in some parts of Germany, where, by the procurement and sedition of Martin Luther and other heretics, were slain an infinite number of Christian people." To prevent like misfortunes happening in England, he orders prompt measures to be taken to put a stop to the circulation of books in English and other languages, which teach things "intolerable to the clean ears of any good Christian man."

By the king's command, the convocation of Canterbury drew up a list of prohibited heretical books. In the first catalogue of fifty-three tracts and volumes, there is no mention of any work of Wycliffe, and besides some volumes which had come from the pens of Tyndale, Frith, and Roy, who were acknowledged disciples of Luther, the rest are all the compositions of the German Reformers. The same may be said of a supplementary list of tracts, the authors of which were unknown. All these are condemned as containing false teaching, plainly contrary to the Catholic faith, and the bishops add, "Moreover, following closely in the footsteps of our fathers, we prohibit all from selling, giving, reading, distributing, or publishing any tract, booklet, pamphlet, or book, which trans-

lates or interprets the Holy Scripture in the vernacular . . . or even knowingly to keep such volumes without the license of their diocesan in writing."

About the same time a committee of bishops, including Archbishop Warham and Bishop Tunstall, was appointed to draw up a list of some of the principal errors contained in the prohibited works of English heretics beyond the sea. The king had heard that "many books in the English tongue containing many detestable errors and damnable opinions, printed in parts beyond the sea," were being brought into England and spread abroad. He was unwilling that "such evil seed sown amongst his people (should) so take root that it might overgrow the corn of the Catholic doctrine before sprung up in the souls of his subjects," and he consequently ordered this examination. This has been done and the errors noted, "albeit many more there be in those books, which books totally do swarm full of heresies and detestable opinions." The books thus examined and noted were eight in number; *The Wicked Mammon*, the *Obedience of Christian Man*, the *Revelation of Antichrist*, the *Sum of Scripture*, the *Book of Beggars*, the *Kalendar of the Prymer*, the *Prymer*, and an *Exposition unto the Seventh Chapter of I Corinthians*. From these some hundreds of propositions were culled which contradicted the plain teaching of the Church in matters of faith and morality. In this condemnation, as the king states in his directions to preachers to publish the same, the commission were unanimous.

The attack on the traditional teachings of the Church, moreover, was not confined to unimportant points. From the first, high and fundamental doctrines, as it seemed to men in those days, were put in peril. The works set forth by the advocates of the change speak for themselves, and, when contrasted with those of Luther, leave no room for doubt that they were founded on them, and inspired by the spirit of the leader of the revolt, although, as was inevitable in such circumstances, in particulars the disciples proved themselves in advance of their master. Writing in 1546, Dr. Richard Smythe contrasts the old times, when the faith was respected, with the then state of mental unrest in religious matters. "In our days," he writes, "not a few things, nor of small importance, but (alack the more is the pity) even the chiefest and most weighty matters of our religion and faith are called in question, babbled, talked, and jangled upon (reasoned I cannot nor ought not to call it). These matters in times past (when reason had place and virtue with learning was duly regarded, yea, and vice with

insolency was generally detested and abhorred) were held in such reverence and honor, in such esteem and dignity, yea, so received and embraced by all estates, that it was not in any wise sufferable that tag and rag, learned and unlearned, old and young, wise and foolish, boys and wenches, master and man, tinkers and tilers, colliers and cobblers, with other such raskabilia might at their pleasure rail and jest (for what is it else they now do?) against everything that is good and virtuous, against all things that are expedient and profitable, not sparing any sacrament of the Church or ordinance of the same, no matter how laudable, decent, or fitting it has been regarded in times past, or how much it be now accepted by good and Catholic men. In this way, both by preaching and teaching (if it so ought to be called), playing, writing, printing, singing, and (oh, good Lord!) in how many other ways besides, divers of our age, being their own schoolmasters, or rather scholars of the devil, have not forborne or feared to speak and write against the most excellent and most blessed sacrament of the altar, affirming that the said sacrament is nothing more than a bare figure, and that there is not in the same sacrament the very body and blood of our blessed Saviour and Redeemer Jesus Christ, but only a naked sign, a token, a memorial and a remembrance only of the same, if they take it for so much even and do not call it (as they are wont to do) an idol and very plain idolatry."

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# CHAPTER VI

## THE LAST DAYS OF ARCHBISHOP CRANMER

AMONG the leaders who worked for the introduction of revolutionary doctrinal changes into the English Church during the sixteenth century there is no more distinguished or striking figure than Thomas Cranmer. His strange and varying fortunes ending in his tragic death have made his character exceedingly difficult to understand. To many he is the great martyr to the Protestant faith of the English Church. On the other hand, a recent Catholic writer, J. M. Stone, in a volume on Queen Mary, renders a summary judgment in the following fashion: "Cranmer suffered according to the notions of his day, on his own principles, and for causes which he had himself judged sufficient for death. He had not only sent men and women to the stake for the very same opinions which he afterwards professed, and had burnt Catholics because they would not acknowledge the king's supreme headship, but had burnt Protestants because their Protestantism differed from his own. All things considered, it was wonderful that he did not receive shorter shrift." Among the favorable estimates of Cranmer, that by Professor Pollard in his *Life of Cranmer* is both scholarly and judicial.

### § 1. *Cranmer and the Appeal to a General Council*[1]

While the pope was pronouncing him contumacious for taking no care to obey his citation and was condemning him to be deprived and degraded as an obstinate heretic, and while he was being burnt in effigy at Rome, Cranmer was engaged in drawing up an appeal to a general council. The law of nature, he wrote to a legal friend

[1] Pollard, *Thomas Cranmer*, pp. 356 ff. By permission of Professor Pollard and G. P. Putnam's Sons, Publishers.





whose assistance he sought, required every man to defend his own life so far as it might be done without offence to God; and lest he should seem rashly and unadvisedly to cast himself away, he had resolved to follow Luther's example in appealing from Leo X. He was bound by oath, he said, never to consent to the reception of the pope's authority in England; from this came all his trouble, so that the quarrel was personal between him and the pope, and no man could be a lawful and indifferent judge in his own cause; therefore, he had good reason in appealing to a general council. Not that he thought his life would thereby be saved; he was well aware that in 1460, Pius II by his "execrable" Bull had forbidden all such appeals to a general council, and thus made absolute his own jurisdiction. "The chiefest cause in very deed (to tell you the truth)," wrote Cranmer, "of this mine appeal is that I might gain time (if it shall so please God) to live until I have furnished mine answer against Marcus Antonius Constantine, which I now have in hand."

The appeal was a stirring and striking document. Cranmer paid an eloquent tribute therein to Rome's services in early times: "The Church of Rome, as it were, lady of the world, both was, and was also counted worthily, the mother of other churches; forasmuch as she them first begat to Christ, nourished them with the food of pure doctrine, did help them with her riches, succored the oppressed, and was a sanctuary for the miserable, she rejoiced with them that rejoiced and wept with them that wept. Then by the examples of the bishops of Rome riches were despised, worldly glory and pomp were trodden under foot, pleasures and riot nothing regarded. Then this frail and uncertain life, being full of all miseries, was laughed to scorn,whiles through the example of Romish martyrs, men did everywhere press forward to the life to come. But afterward the ungraciousness of damnable ambition never satisfied, avarice and the horrible enormity of vices had corrupted and taken the See of Rome, there followed everywhere almost the deformities of all churches growing out of kind into the manners of the Church, their mother, leaving their former innocency and purity, and slipping into foul and heinous usages. For the aforesaid and many other griefs and abuses, since reformation of the above-mentioned abuses is not to be looked for of the Bishop of Rome; neither can I hope by reason of his wicked abuses and usurped authority to have him an equal judge in his own cause, therefore I do challenge and appeal in these writings from the pope."

He protested against being condemned in his absence; he could not appear in person, for he was straitly kept in prison; "and though I would never so fain send any proctor, yet by reason of poverty I am not able (for all that ever I had, wherewith I should bear my proctor's costs and charges, is quite taken from me)."

### § 2. *Degradation of Cranmer*

This appeal Cranmer had no means of lodging, and on February 13, 1556, Bonner and Thirlby went down to Oxford to execute the papal commission for his degradation. The procedure on such occasions was a monument of exquisite cruelty; nothing that ingenuity could devise was omitted to abase the victim and wound his spirit; and while Bonner gloated over his task, Thirlby must have suffered at least as much as Cranmer. He was a man of humanity and had received promotion, friendship, and other benefits from the archbishop. "Whether it were a jewel," writes Morice, "plate, instrument, maps, horse, or anything else, Thirlby had but to admire, and Cranmer would give it him." Calling the prisoner before them in the choir of Christ Church Cathedral, the two papal commissioners read their commission. When they came to the statement that his cause had been indifferently (*i.e.* impartially) heard at Rome, and that he had lacked nothing necessary for his defence, Cranmer was moved to anger. "God must needs," he exclaimed, "punish this open and shameless lying." Next he was clothed in the vestments of all the seven orders and with the insignia of an archbishop, a staff was put in his hand and a mitre upon his head. Then Bonner mocked him:—

"This is the man," he said, "that hath ever despised the pope's Holiness, and now is to be judged by him; this is the man that hath pulled down so many churches and now is come to be judged in the Church; this is the man that contemned the blessed sacrament of the altar, and now is come to be condemned before that blessed sacrament hanging over the altar; this is the man that like Lucifer sat in the place of Christ upon an altar to judge others, and now is come before an altar to be judged himself."

So pained was Thirlby at this exhibition that more than once he pulled Bonner's sleeve to stop him. After this they began to strip Cranmer of his robes. As they took off his pall he asked, "Which of you hath a pall to take off my pall?" He was an archbishop, they only bishops; they acted, they replied, not as bishops, but as papal delegates. They then wrested the crozier staff from his





hands, while he drew from his sleeve his appeal to a general council. Thirlby said they could admit no appeal, and the degrading rite went on. Bonner scraped his fingers and nails to obliterate the effects of an unction administered twenty-three years before. Divested of episcopal rank, Cranmer was then successively degraded from the orders of priest, deacon, subdeacon, acolyte, exorcist, lector, and doorkeeper. Finally a barber shaved his head to deprive him of whatever grace a long-disused tonsure may have originally given him. "Now," exclaimed Bonner in brutal triumph, "now you are no lord any more." "All this," said Cranmer, "needed not; I had myself done with this gear long ago."

### § 3. *The First Dated Recantation*

Clad in "a poor yeoman-beadle's gown, full bare and nearly worn," Cranmer was now as a layman handed over to the secular authorities, whom Bonner, if he followed the usual form, besought not to expose their charge to any danger of death or mutilation. He was taken back to Bocardo, where two days later he made the first of his dated recantations. It stands forth among *All the Submissions and Recantations of Thomas Cranmer*, officially published after his death; and according to another recently discovered narrative, he had for six weeks or more been listening to the persuasions of two Spanish friars, Pedro de Soto and John de Villa Garcia, and of his jailor, Nicholas Wodson. He is also said to have asked for an interview with his old friend Tunstall, who replied that Cranmer was more likely to shake him than be convinced by him, and with Cardinal Pole, who gathered up all his skirts when there was fear of contact with heretics. It is as a result of these persuasions that Cranmer is supposed to have signed the first three of his recantations; but they are not really recantations at all. In the official version the first two are merely styled "submissions," and the third still more vaguely a "scriptum." They are, in fact, only submissions to authority, such as Cranmer's political principles almost compelled him to make.

It must always be borne in mind that the English Reformers of the sixteenth century as a rule recognized no such thing as the right to individual judgment, and its necessary corollary, religious toleration. Every form of government is based on a compromise between two principles, either of which, when pushed to extremes, is fatal to human society. The idea of private judgment ultimately leads to anarchy, and the doctrine of authority to slavery.

In some cases the law must override individual conscience, while on the other hand, unless individual conscience had occasionally defied the law, there would have been no progress; and men who denounce most vigorously resistance to the law are often first to resist when the law touches their own individual conscience. Cranmer was now at the *crux* of the difficulty. The question for him, as for most others, had been between the authority of the pope and that of the English State represented by the king. He had unreservedly decided for the authority of the State, and he was deeply imbued with the sixteenth-century notions of the wickedness of resistance to the king's authority. He had in 1549 told the rebels of Devon with unnecessary emphasis that if the whole world prayed for them till doomsday, it would not avail them unless they repented their disobedience.

This theory involved but slight inconvenience when Henry or Edward was king, and when their laws concurred with Cranmer's conscience in renouncing the pope and his doctrine. But when Mary was queen the trouble began. If the English sovereign, Church, and Parliament had the right to abolish the papal jurisdiction, had they not also the right to restore it? And this authority restored, on what grounds could Cranmer resist? When arguing with Sir Thomas More about the oath of succession in 1534, he had suggested that More's conscience was doubtful about his duty to swear, but there was no doubt about his duty to obey the king. Even More confesses that he was unable at first to rebut the argument; yet he had surer ground than Cranmer in 1556 when the same reasoning was turned against him. For More could say that the voice of the Catholic Church justified him in refusing in this instance obedience to the king; but Cranmer could not plead the authority of the Church. For good or for ill, he had pinned his faith and allegiance to the State; and logically he was driven to obey the State even when it asserted the jurisdiction of Rome. Was there not also scriptural warrant for yielding under compulsion? Had not Elisha promised pardon to Naaman whenever he bowed the knee in the House of Rimmon?

It was this distressing dilemma which produced Cranmer's first submission; he recognized the papal authority, not because its claims had any intrinsic weight, but because the law of England, which he was bound to obey, had re-imposed that authority. "Forasmuch," he wrote, "as the king's and queen's Majesties, by consent of the Parliament, have received the pope's authority within this realm, I am content to submit myself to their laws





herein." Yet he was not content; his conscience warred with his logic. Whatever the laws might say, his conscience did not admit the papal claims. He had sworn to renounce the pope, and that oath represented his real convictions. Scarcely had he signed the first submission before he cancelled it, throwing logic to the winds and taking refuge in conscience. But then, what about his oath of allegiance to Mary and her laws? Was not that also a conscientious oath? Undoubtedly it was; his conscience was now divided against itself, while logic counselled submission. Thus divided, his conscience could not stand, and a second submission followed, more complete than the first.

### § 4. *Cranmer's Renewed Submissions*

The date of these two submissions cannot be ascertained. Perhaps they preceded his degradation, on February 14. If so, they were annulled by the appeal he then presented to a general council, in which he spoke of the heinous and usurped authority of the Bishop of Rome, and by his declaration during the ceremony that he would never again say mass. Either the indignities then suffered renewed his abhorrence of the papal system or the presentation of his appeal gave him fresh confidence; for when Bonner visited him in Bocardo on February 15 and 16 he could only extort from him submissions much more guarded than before. These are the third and fourth recantations; the third, while expressing readiness to submit to the laws of the king and queen concerning the pope's supremacy, promised with regard to his books submission not to the pope, but only to the judgment of the Catholic Church and of the next general council. The fourth recantation, dated February 15, was the first in which Cranmer made any direct reference to questions of doctrine, and he did so "in terms which might have been subscribed by any of the martyrs that had died." He simply declared his belief to be in accord with that of the Catholic Church; that, of course, had all along been his contention: popery was a corruption of Catholicism.

These documents Bonner took back to London, where it now devolved upon the government, that is to say Queen Mary and Cardinal Pole, to decide what was to be done with the degraded archbishop. There is no reason to suppose that they ever intended to spare his life. They would have thought it presumption to neglect a papal sentence, and indeed those condemned by the Church were as a matter of course in Mary's reign sent to the

stake. From their point of view, Cranmer had done evil for which his death would be but a slight atonement; unable to comprehend the state of mind which led men to reject the doctrine of Rome, they and many others since their time attributed the whole Reformation in England to the divorce of Queen Catherine, in which Cranmer had played no small part. That to Mary was naturally a grievous offence, and others who shared the guilt with Cranmer were not sorry that he alone should bear the responsibility. Nor, although the contrary has often been asserted, was it illegal to burn a penitent heretic.

### § 5. *Preparation for the Complete Humiliation of Cranmer*

But Mary and Pole had wider objects in view than the satisfaction of a personal animus against Cranmer or the exemplary punishment of the greatest living heretical Englishman. They desired to serve the general cause of Roman Catholicism. It was not enough that Cranmer should die; he must also be made to ruin the Reformation. Northumberland had "turned many" by his speech on the scaffold; if Cranmer would only repeat the performance, the candle lighted by Ridley and Latimer might be snuffed out after all. Cranmer's weakening on the point of the papal supremacy had already suggested that he might be used for this purpose, and after Bonner's return to London means were considered for producing a deeper impression on Cranmer's mind. Terror was first employed, and on February 24 the queen signed a warrant for his committal to the flames. No date was fixed, but Cranmer was given to understand that the writ had been signed.

When a sufficient interval had elapsed for this information to work on the prisoner's mind, his treatment was suddenly changed. The prison doors were thrown open, and Cranmer exchanged his dungeon in Bocardo for the pleasant deanery of Christ Church. There he was used with every consideration. He walked in the gardens, played bowls on the green, enjoyed the converse of men of learning and wit, and lacked no delicate fare. Bishop Brooks at his trial told him that, "Whereas you were Archbishop of Canterbury and Metropolitan of England, it is ten to one (I say) that ye shall be as well still, yea, even better." All these things might be given him if —.

### § 6. *The Real Recantation*

Then Cranmer fell. He signed his fifth or real recantation, in which he anathematized the whole heresy of Luther and Zwingli, confessed his belief in one holy and visible Catholic Church, beyond the pale of which there was no salvation, and recognized the pope as Christ's vicar and supreme head of the Church on earth. The true body and blood of Christ were, he declared, really present under the forms of bread and wine in the sacrament; the bread was translated into the body and the wine into the blood of Christ. He acknowledged the six other sacraments and the existence of purgatory. This was no mere submission to outward authority, but a professedly complete recantation of inward belief extorted from him by the poignant contrast between the pleasant prospect of life and the vivid horror of an agonizing death. He surrendered every point for which he had fought; the "comfort he had in Christ" had not, as he hoped, enabled him "to cast away all fear."

Unfortunately, human frailty has made Cranmer's case a type rather than an exception among religious leaders. But they lived in times far removed from the comfortable immunity which now attends doctrinal vagaries; and it is more charitable and perhaps more fruitful to attempt to understand the psychological problem presented by cases like those of St. Peter, Hus, Jerome of Prague, Savonarola, Cranmer, and Galileo than to make broad our phylacteries and point the finger of scorn at those who succumbed to a test which their critics have never stood. How comes it that an ordinary dervish will face death without flinching when great religious leaders have quailed? No doubt the horrible mode of a heretic's death supplied an additional terror, and courage comes easier on the spur of the moment, and in the heat of the battle than after prolonged reflection. But it is also true that the more sensitive the mind is, the greater is the fortitude required to confront danger. It is easy for the dull brain to face death; a dog, could it reason, could never be made to recant, because it would fail to imagine death. But an impressionable imagination like Cranmer's paints the unknown horrors of the stake in the most vivid colors. It was the working of his imaginative and susceptible mind which drove Cranmer to yield when less impressionable men like Hooper, Ridley, and Latimer successfully bore the strain.

In another respect Cranmer was less fitted than his colleagues to withstand the attack. A man who sees only one side of truth at a time is proof against doubt; but the man of broader intellect, who knows that truth is relative and feels the force of hostile arguments, is inevitably less dogmatic and less absolutely sure of the impregnability of his position. In these days of comparative study it might almost be said that to be positive is to be ignorant; and few there are who would give their bodies to be burnt on the assumption that their opinion was the whole truth, and nothing but the truth. Cranmer was much nearer this modern position than his contemporaries; he knew, none better, that on the impregnable rock of Holy Scripture could be based arguments against him as well as for him, and that the voice of the Church had varied in various ages. Even general councils, he knew, could err; was he, then, unique and infallible? His distressing dilemma between a conscience which bade him renounce the pope and a conscience which bade him obey his sovereign opened a breach through which doubts rushed in and submerged him.

The date of his fifth recantation is uncertain, but it was in print before March 13, when the privy council summoned the printers before them and ordered all copies to be burnt. An English translation of this document, writes the Venetian ambassador on March 24, "was published in London, and as it was signed by Father Soto and his associate, both Spaniards, . . . the Londoners not only had suspicion of the document, but openly pronounced it a forgery; so the lords of the council were obliged to suppress it and to issue another witnessed by Englishmen."

### § 7. *The Sixth Confession and its Purpose*

It may have been partly to demolish forever these suspicions of forgery that Cranmer, who was now — if not before — sent back to Bocardo, was required to make a sixth and still more debasing confession; but the main object seems to have been to cover the whole history of the Reformation with shame and indelible infamy. Hitherto Cranmer had only professed a complete change of mind, without directly accusing his past career. Now he was to depict his misdeeds in the blackest hues, and to attribute to his own sinister influence the whole series of woes which had lately afflicted the realm. "I have sinned" (such were the words put into his mouth) "most grievously, before Heaven and against the realm of England, yea, against the whole Church of Christ; I have per-





secuted more furiously than Paul; I have blasphemed, persecuted, and maltreated." He was then made to compare himself with the thief on the cross, and to imply that, like the thief, he only repented when his means to do harm had failed. He was most deserving, proceeded the confession, not only of all human and temporal, but divine and eternal punishment, "because I did exceeding great wrong to Henry VIII, and especially to his wife, Queen Catherine, when I became the cause and author of their divorce, which crime, indeed, was the seed-plot of all the evils and calamities of this realm. Hence came the death of so many good men, hence the schism of the whole realm, hence heresies, hence the confounding of so many minds and bodies. . . . I opened wide the windows to heresies of every sort, of which I myself was the chief doctor and ductor. . . . In this, indeed, I was not only worse than Saul and the thief, but most accursed of all whom the earth has ever borne." . . .

This last shameful confession — more shameful to those who dictated it than to the heart-broken captive who signed it — was dated March 18. It would reach London on the following day. Queen Mary and Pole had now got what they wanted and all they could hope to obtain. Here was a version of recent history even more pleasing to them than that of Northumberland. When the chief prophet of reform had cursed it in terms like these, who should be found to bless or defend? A single and final service had Cranmer performed; he could be of no further use except to repeat in public his private confession; he might now be dismissed to the stake. Orders were given at once, which would reach Oxford on the 20th, that Cranmer should be burnt on the following day. Dr. Cole, Provost of Eton, was warned to prepare a sermon, and Lord Williams of Thame and other local magnates were directed to summon their forces to maintain order at the public execution. Cole arrived in Oxford on the 20th, and the lords and their retainers in the early hours next morning.

### § 8. *The Seventh Recantation*

It was probably on the day before his death that Cranmer composed what is called his seventh recantation. It consisted of the address he should make to the people at his execution, and when he wrote it out he must have already known that he was to die on the morrow. His sixth recantation had bent the bow to the uttermost; could a religious system which involved such cruelty

be just or true? He was still in the valley of doubts and fears, the light had begun to glimmer, and the harrowed mind to hope. Although this seventh document asserts the real and substantial presence of Christ in the Eucharist, and repudiates the books he had written against that doctrine since the death of Henry VIII, it contains no such painful language as its predecessors and not a word of submission to the pope: apart from the sacrament it merely professes the creed of the English Reformers. "I believe," he says, "every article of the Catholic faith, every clause, word, and sentence taught by our Saviour Jesus Christ, his Apostles, and Prophets, in the New and Old Testament, and all articles explicate and set forth in the general councils." Could it be that Cranmer was going over again in brief the history of his mental development? His previous recantations had carried him back to the state of belief in his youth, but they had not represented any deep change of conviction, and now it seemed that the revulsion had already begun. Gradually he began to recover lost ground, and in this seventh recantation there is nothing inconsistent with his position under Henry VIII after the breach with Rome.

But the process did not stop here in a halfway house, and a further mental struggle ensued during the night between this recantation and the dawn of his dying day. Of that night of agony we have no record, but it needs none to depict the depth of Cranmer's conflicting emotions, his shame and humiliation, his dread of approaching torture and of the yet more dark hereafter, his intense desire to salve his conscience, and his aching to be at peace. The papist tractarian tells us that he sought comfort in the Penitential Psalms, but we may be sure that petitions from his own great Litany sprang no less readily to his lips: "that it may please Thee to succour, help, and comfort all that be in danger, necessity, and tribulation . . . and to show Thy pity upon all prisoners and captives; . . . that it may please Thee to bring into the way of truth all such as have erred and are deceived . . . that it may please Thee to strengthen such as do stand, and to comfort and help the weak-hearted, and to raise up them that fall, and finally to beat down Satan under our feet."

### § 9. *The Last Day*

The morning broke in a storm of rain, and the crowds which thronged St. Mary's came out to see a reed shaken with the wind.





The reed was bent and sorely bruised, but it was not broken yet; even now it might be fashioned into a rod. To St. Mary's Cranmer was led in procession between two friars, and as they approached the doors a significant *Nunc Dimittis* was raised. Inside, Cranmer was placed on a stage opposite the pulpit, from which Dr. Cole was to preach a sermon. Cranmer had given no sign to Cole or the friars who visited him in the morning, but he had told a poor woman, on whom he bestowed some money, that he would sooner have the prayers of a good layman than those of a bad priest. That boded ill for his final profession, and both Romanists and Reformers passed from hope to fear and from fear to hope as they witnessed Cranmer's demeanor. He was made the touchstone of truth, and his foes themselves had determined that his conduct should test the strength of the two forms of faith.

He stood there, "an image of sorrow," while Cole delivered his not unmerciful sermon. With more kindliness than consistency he recalled for Cranmer's comfort the fate of the three faithful children of Israel, who refused to bow before the false god which the king had set up, and passed through the fire unscathed. When he had ended he asked them all to pray for the contrite sinner. Cranmer knelt with the congregation. Then he rose and gave thanks for their prayers, and began to read from a paper he held in his hand. It was his seventh recantation — amended. First came a prayer, — "the last and sublimest of his prayers," — then followed four exhortations. He besought his hearers to care less for this world and more for God and the world to come; to obey the king and queen, not for fear of them only, but much more for the fear of God, for whosoever resisted them resisted God's ordinance; to love one another like brothers and sisters and do good to all men; and finally he reminded the rich how hard it was for them to enter the kingdom of heaven, and moved them to charity, for what was given to the poor was given to God.

"And now," he went on, "forasmuch as I have come to the last end of my life, whereupon hangeth all my life past and all my life to come, either to live with my Saviour Christ for ever in joy, or else to be in pains ever with the wicked devils in hell; and I see before mine eyes presently either heaven ready to receive me, or else hell ready to swallow me up: I shall therefore declare unto you my faith without colour or dissimulation; for now is no time to dissemble whatsoever I have written in time past."

Then Cranmer began the real work of that day. Having

recited the Lord's Prayer in English, he began the profession of faith contained in the seventh recantation; but now he declared no unlimited belief in general councils. He had completely recovered the ground lost in his recantations and regained the position of 1552. If his audience perceived the drift of these changes, the tension must have grown almost unbearable. The climax was reached; his trial was over, his triumph began.

"And now I come to the great thing that so troubleth my conscience, more than any other thing that I said or did in my life: and that is my setting abroad of writings contrary to the truth, which here now I renounce and refuse as things written with my hand contrary to the truth which I thought in my heart, and written for fear of death, and to save my life, if it might be; and that is all such bills which I have written or signed with mine own hand since my degradation; wherein I have written many things untrue. And forasmuch as my hand offended in writing contrary to my heart, it shall be first burned. And as for the Pope, I refuse him as Christ's enemy and Antichrist, with all his false doctrine. And as for the Sacrament — "

He got no farther; his foes had been dumb with amazement, but now their pent-up feelings broke loose. "Stop the heretic's mouth!" cried Cole; "take him away!" "Play the Christian man," said Lord Williams; "remember your recantations and do not dissemble." "Alas! my lord," replied Cranmer, "I have been a man that all my life loved plainness and never dissembled till now against the truth, which I am most sorry for"; and he seized the occasion to add that as for the sacrament he believed as he had taught in his book against the Bishop of Winchester. The tumult redoubled. Cranmer was dragged from the stage and led out towards the stake.

There was no need of a spur for his lagging steps. His desire was now to be gone. He had done with the quicksands of logic, legal formulas, and constitutional maxims, and had gained a foothold in conscience. The fight had been long and bitter, but he had reached a conclusion at length; he had "professed a good profession before many witnesses." The Reformation would not be shamed in him, and the gates of hell should not prevail against it. Over it, as over his own ashes, he would write the legend *Resurgam*. Eagerly he pressed forward to the scene of his final victory, and the friars could scarcely keep pace. Through Brasenose Lane and out of the gate by St. Michael's they sped to a spot in the present Broad Street in front of Balliol College; there





Ridley and Latimer had suffered six months before, and now it is marked by a plain stone cross in the ground.

The friars ceased not to ply him with exhortations. "Die not in desperation," cried one; "Thou wilt drag innumerable souls to hell," said another. But Cranmer was out of their reach; it was not to perdition that he thought those souls would go. Cheerfully he put off his upper garments and stood in his shirt, which reached to the ground. There was no hair on his head, but a long white beard flowed over his breast. He was then bound to the stake with a steel band, and light was set to the hundred and fifty fagots of furze and the hundred fagots of wood which made up his funeral pyre. As the flames leaped up, he stretched out his right hand, saying with a loud voice, "This hand hath offended," and held it steadfastly in the fire until it was burnt to ashes. Thus openly did he proclaim his faith by the gesture in which the mind of posterity paints him. No one could falsify that recantation; it was a sign which none could misread. His body might perish; but his cause was won. He saw the travail of his soul, and was satisfied.

"His patience in the torment," writes a hostile eye-witness, "his courage in dying, if it had been taken either for the glory of God, the wealth of his country, or the testimony of truth, as it was for a pernicious error, and subversion of true religion, I could worthily have commended the example, and matched it with the fame of any father of ancient time."

No cry escaped his lips, no movement betrayed his pain save that once with his unburnt hand he wiped his forehead. The flames might scorch and consume his flesh, but his spirit had found repose; for conscience had ceased to torment, and a peace which passed understanding pervaded his soul.

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# CHAPTER VII

## THE ELIZABETHAN SETTLEMENT IN THE CHURCH

IT is difficult to estimate the forces which swept England into Protestantism after the Catholic reaction was broken by the death of Queen Mary. The entire Tudor period needs a treatment comparable to that which Mr. Gardiner gave the portion of the seventeenth century covered in his great works. The sudden ecclesiastical oscillations will be understood only when a detailed and patient analysis is made. At all events, we do know that the State which had adopted the Catholic faith with apparent readiness in 1553 turned to the established Protestant faith with the same readiness five years later.

### § 1. *The Opening of Elizabeth's First Parliament*[1]

Ten days after her coronation, Elizabeth returned to Westminster to open her first Parliament. The two houses assembled themselves within the Abbey to hear the accustomed mass of the Holy Ghost, but found that the mass had been sung early that morning, without the elevation. The Queen arrived at the Abbey, after a midday dinner, in her ordinary open litter, accompanied by the court in their coronation robes. She had been turning and smiling to the people, with "gramercy, good people," all the way, in answer to shouts of "God save and maintain thee." The bishops were in her train. At the Abbey door the Abbot Feckenham, with all his monks in procession, each having a lighted torch in his hand, received her with incense and holy water; but when she saw the torches she exclaimed, "Away with those torches, for we see very well." Her choristers uplifted the Litany in English, and she was accompanied to the high altar under her

[1] Dixon, *History of the Church of England*, Vol. V, pp. 51 ff. By permission of the Delegates of the Clarendon Press, Oxford.





canopy. Not a bishop, but a returned exile ascended the pulpit; not an indifferently chosen returned exile, but he who had been dean of Westminster before Feckenham was abbot, whom Feckenham had displaced; not any other pulpit ascended he than that from which a little time ago had sounded from the lips of Bishop White of Winchester the funeral oration of Mary; and both White and Feckenham were compelled to abide the eloquence of Dr. Cox. The conqueror of Frankfort and of Knox was equal to himself. For an hour and a half he held the audience spellbound, denouncing the iniquities of monks and the persecution in which so many innocent persons had been burnt under pretence of heresy; praising the queen and exhorting her no longer to tolerate the past iniquities, but to put down images and monasteries. At the end of this sermon the queen proceeded to the House of Lords, and the business of the session was begun by the new Lord Chancellor Bacon in an elaborate oration, dealing with three great matters, — the reformation of religion, the mitigation of the penal laws, the supplies. He exhorted to uniformity, spoke in a masterly manner of the imperfection and abuse of laws, and lamented the necessities of the sovereign whose graces he was insufficient to extol. To the measures to be taken for such a settlement he seemed to predict opposition when he deprecated contumelious words, as heretic, schismatic, papist, which he termed the nurses of seditious factions and sects. He seemed to indicate the sort of opposition to be feared when he exhorted them in that assembly to avoid "all sophistical, captious, and frivolous arguments and quiddities, meeter for ostentation of wit than consultation of weighty matters, comelier for scholars than counsellors, more beseeming for schools than for Parliament houses." The Parliament which was opened with this preamble recovered tenths and firstfruits to the crown, declared the royal supremacy in a new statute, expelled the pope once more from England, was illustrated by the arguments of prelates, and was suspended to listen to a theological debate in Westminster Abbey. It was accompanied by a remarkable convocation; it was dissolved in May.

### § 2. *Early Acts of Parliament*

No Tudor House of Commons but was packed; this was an assembly of nominees of the crown. The first thing that it did was to restore firstfruits and tenths, and the patronage of all impropriate livings to the crown, and to erect again the courts of

firstfruits and augmentations, undoing the righteous work of Mary in a very hypocritical strain. They preluded that they "conceived at the bottom of their hearts great sorrow and heaviness when they called to remembrance the huge, innumerable, and inestimable charges of the royal estate and imperial crown of this realm"; that her Majesty's dearest sister the late queen had restored goods to the Church "upon certain zealous and inconvenient respects, not sufficiently nor politically enough weighing the matter." All the bishops present and an abbot, Feckenham, were dissentient from this act: the puisne Bishop of Carlisle, and in ascending order the Bishops of Chester, Exeter, Coventry, Llandaff, Worcester, London, and York; all lay lords were for it. Another act supplemented or developed it, enabling the queen, whose necessities were again deplored, to take in possession on every avoidance as much of the lands of the see as the yearly value of her tenths and impropriate parsonages within the see came to. This measure is reckoned a great starting-point in ecclesiastical property. It went through the Commons with difficulty late in the session. The next necessity was the recognition of the queen's title, a declaration that she was the heir to the crown, lawfully descended from the blood royal. In this neither was the validity of Anne Boleyn's marriage affirmed, nor the former act against the legitimacy of Anne Boleyn's daughter repealed; dignity was consulted by neither reflecting implicitly in such a manner on the memory of the father nor on the birth of the sister of the queen; the assembly was spared the pain of censuring the work of predecessors, and the adhesion of the bishops was secured. Another act made it treason to depose the queen; another extended to freedom of speech against her the same penalties of pillory, loss of ears, loss of hand, which had been ordained for the protection of Philip and Mary.

### § 3. *The Passing of the Monks*

Another, a private act of Elizabeth's first Parliament, annexed again to the crown the religious houses refounded so laboriously by Mary, the inhabitants began to disperse, and the final dissolution of the monasteries occupied the summer. Pensions awaited those who would renounce their profession and accept the oath against foreign jurisdiction; but some departed, some passed the seas, before the application of the statute. The Spanish ambassador, De Feria, who quitted the country in May, in his final interview





with the queen pathetically requested as a parting gift a passport to carry them all with him to Flanders; but, instead of a train of monks, nuns, and friars, he bore away a beautiful English bride, and after his departure the queen's concession was limited to those religious persons who had been living in the time of the great suppression of monasteries, of whom but few were left. The greater part of the rest remained in the kingdom. The Black Monks of Westminster were said to have "changed their coats," the most of them, by the end of May. Their abbot, Feckenham, a man of wealth and benevolence, passed into private life, spreading benefits wherever he dwelt. The Friars Observant of Greenwich were discharged in June; in July the Black Friars of Smithfield, the nuns of Sion, and the monks of the Charterhouse. So passed away the last survivors of the religious life in England.

### § 4. *The Establishment of Royal Supremacy*

The great religious enactments of this Parliament, the Acts of Supremacy and Uniformity, vast and permanent, the base of the whole ecclesiastical legislation of the reign, took their beginning in the House of Commons. The House prepared itself by religious exercises. On Ash Wednesday, February 8, they adjourned to hear a sermon which was preached before the court by the favorite orator, Dr. Cox. On the following Saturday the English Litany was said by the clerk of the House kneeling, and answered by the whole House on their knees with divers prayers. The next time that they met, Monday, February 13, they had the second reading of the first draft of a bill "for annexing the supremacy to the crown." A great debate ensued, and the bill was dashed; a new bill was drawn, and after many arguments passed the House, February 25. This was the act which stands among statutes with the title of "An act to restore to the crown the ancient jurisdiction over the estate ecclesiastical and spiritual, and abolishing all foreign power repugnant to the same." It repealed the great statute of Philip and Mary which revived the papal jurisdiction, by which it is said that "the subjects were eftsoons brought under an usurped foreign power and authority, and did yet remain in that bondage." It repealed the reënacted statutes of heresy of the same reign. It revived ten great statutes of Henry the Eighth specifically, and on the other hand it confirmed the repeal of all the other laws of Henry which had been repealed by Philip and Mary. The effect of this confirmation of repeal

was to annul the title of supreme head, and at the same time to render necessary some new machinery to secure the royal supremacy in things ecclesiastical. Supreme head died irksomely. Not having been assumed by the queen in the writs for this Parliament, the first question that engaged the Commons when they met was whether through this omission the writs had been well issued and the Parliament were to be held. They decided it on the precedent of Mary's own Parliaments, which had been well summoned, though Mary latterly omitted the title; and they silently dismissed the tasteless denomination which had done so much to perplex history. They proceeded to abolish all usurped and foreign jurisdiction, to unite to the crown all jurisdiction visitatorial or corrective that had been or might lawfully be exercised by any spiritual power or authority, and to authorize the queen to exercise by commissioners, whom she might assign, the power thus recognized. The commissioners, who might be appointed, were to adjudge no matters to be heresy but upon the authority of the canonical Scriptures, of the first four general councils, of any other general council acting on the plain words of the canonical Scriptures, or such matter as should thereafter be determined to be heresy by the high court of Parliament with the assent of the clergy in convocation. Such was the origin of the celebrated court of high commission. This statute was penal; it made maintenance of foreign authority treason for the third offence. It contained a form of oath in which the queen was acknowledged, more properly than supreme head, supreme governor of the realm as well in all spiritual or ecclesiastical things or causes as in temporal. This oath, which was presently to play an important part in history, simply denied the jurisdiction of any foreign power or person, without mention of the Bishop of Rome. It may be added that the act ended with a provision for a pending appeal to Rome "from a pretenced sentence given in consistory in Paul's" by Pole's judges delegate by legatine authority — a matrimonial cause, which was characteristically settled thus: If Rome gave answer within threescore days, Rome's answer should be allowed to supersede Pole's sentence and stand good; but if Rome gave no answer within threescore days, Richard and Agnes might transfer their appeal against Pole's sentence to the court of the archbishop within the realm.





### § 5. *The Act for Uniformity*

The other main statute of this Parliament, the Act for Uniformity, restored the English service of King Edward the Sixth with a few specified alterations. It was brought into the Commons, January 20, by which time it may perhaps be concluded that the revision of the Book of Common Prayer had been finished in Sir Thomas Smith's house; it was expedited in about three months. This act was made, the most part, out of the two former Acts for Uniformity: of the first of Edward, which was clerical as to penalties (the reader may be reminded), and trod on the layman only who openly depraved the English service by interludes, ballads, or contemptuous words; of the second of Edward, which extended penalty to all lay people whatever offending, whether they merely refused to come to their churches, or were present at any other form of service. Skill, prudence, and severity marked the combination. As to the clergy, the penalties laid against them remained unaltered, since it was scarcely possible to increase them; as to the open depravers, the fines of ten and twenty pounds for the first and second offences were raised enormously to one hundred and four hundred marks; it was scarcely possible to increase the penalty of the third. But the simple layman who would not go to church found himself also in harder case than before. By Edward's second Act for Uniformity he was liable to ecclesiastical censures; by this act he was made liable furthermore to a fine of a shilling a Sunday, an abominable exaction.- On the other hand he was not pursued so far by this act as by Edward's act if he chose to frequent some other manner of service, for such an offence was not named. He was not pursued to his coventicle, if he had one, but the clauses of Edward's act in that behalf were omitted. If the significance of this had been perceived, if it had become known on all sides that the layman might go where he would on other days, provided that he went to his church on Sundays and holy days, it might have made a difference in history.

The ordinaries and the justices were conjoined, as before, in the execution of these very enactments, and the solemn adjuration, which Edward's latter act contains, of the queen, the lords temporal, and the Commons to the archbishops, bishops, and other ordinaries to do their duty, was repeated. It has caused some searchings of heart; nor less the following clause, also borrowed from Edward, in which the ordinaries were empowered under the same authority, " by this act to reform and punish by censures

of the Church." The purport of this act was to restore the Second Prayer Book, the book that was "authorized by Parliament in the fifth and sixth year" of the reign of Edward. The various services and offices were ordered to be said and used in the manner and form of the Second Book; but my reader may remind himself that if this third Act for Uniformity restored the Second Book of Edward, the second Act for Uniformity authorized his First Book. There has been but one English Service Book throughout.

This act restored Edward's revision of the book, with several alterations, carefully specified, made doubtless by Smith and his theologians. They were, "certain lessons to be used on every Sunday in the year, the form of the Litany altered and corrected, and two sentences only added in the delivery of the sacrament to the communicants, and none other or otherwise." For the rest, some curious points may be noted in this act. It omitted all mention of the English ordinal, which the second Act for Uniformity had expressly and formally added to the Prayer Book as of the same authority, and which had not been included in the first act because it was not ready at the time. This legislative omission was artfully or naturally misunderstood, and gave rise in time to no small trouble. The act ended with two memorable provisions peculiar to itself. The one was a rubric, if it may be called so, the first form of the highly contentious rubric, which now stands in the Prayer Book, concerning the ornaments of the Church and of the minister. Instead of restoring the rubric of Edward's Second Book, that the minister should never wear alb, vestment, or cope, it ordered that all such ornaments as were in the second year of Edward should be retained and be in use until other order should be taken by the queen's authority with the advice of the commissioners who were to be appointed, or of the metropolitan of the realm. The other was a reservation which afterwards bore some sorry fruit, that in case of misuse or irreverence in the ceremonies or rites of the Church, the queen with the like advisers might ordain further rites and ceremonies. These respective clauses were the first indication of the kind of work to be done by these commissioners. The secondary mention of the metropolitan may be noted, but at least he was there. St. John's day, June 24, was appointed for the inuring of the act and of the English service.





### § 6. *Catholic Arguments against the New Law on Royal Supremacy*

These two great acts, one of which put out the pope and the other the Latin service, were boldly opposed by the Romanensian prelates. All dissented from them, and several spoke against them. Archbishop Heath, whose learning and piety we have so often admired, gave forth a laborious prelection upon the former of them, concerning the supremacy, which was perhaps unequal to his reputation. "You are by this bill," said he, "forsaking the See of Rome. Is there no inconvenience and danger in that? You are giving a supremacy, consisting of spiritual government, to the queen. Have you authority to grant this; or has she capacity to receive it? If you meant only to withdraw obedience from the present Pope Paul the Fourth, who has shown himself a very austere stern father to us ever since his entrance into Peter's chair, then the cause were not of so much importance. But by relinquishing the See of Rome we must forsake all general councils, all canonical and ecclesiastical laws of the Church of Christ, the judgment of all other princes, and the unity of Christ's Church. By leaping out of Peter's ship we hazard ourselves to be drowned in the waters of schism, sects, and divisions. As to the general councils, the first four, of Nice, Constantinople, Ephesus, and Chalcedon, in various ways acknowledged the Bishop of Rome to be their chief head; therefore to deny the See Apostolic is to set at naught their judgments. As to ecclesiastical laws, they wholly depend on the authority of the See Apostolic, and cannot bind the universal Church without it. As to other princes, neither Protestant nor Catholic agree with these our doings, for none of them ever took such a title as Henry the Eighth did. Whether are your wisdoms about to advise the queen to follow the example of King Uzziah who burned incense, or of King David who would not touch the ark?

"We have as humble and godly a mistress to reign over us as ever had English people, if that we do not seduce and beguile her by our flattery and dissimulation. As to the unity of Christ's Church, by leaping out of Peter's ship we must, I say, be overwhelmed with the waters of schism, sects, and divisions. St. Cyprian says that the unity of Christ's Church depends upon the unity of Peter's authority, and that all heresies, sects, and schisms do spring for that men will not be obedient to the head bishop of God. Fleeing from the unity of the Church of Rome, we must grant that the





Church of Rome is either of God or else a malignant Church. If of God, where Christ is truly taught and the sacraments rightly administered, how can we disburden ourselves of forsaking that Church with which we ought to be one and not to admit any separation? If you answer that it is a malignant Church, then we of this realm have never received any benefit of Christ, since we have received no gospel, no faith, no sacraments other than were sent us from Rome. Holy Eleutherius sent Faganus and Damianus in the time of King Lucius. Holy Gregory sent Augustine and Mellitus. And now Paulus Tertius lately sent Cardinal Pole to restore the faith which Eleutherius and Gregory planted. If the Church of Rome be a malignant Church, we have been deceived; for the doctrine must be of the nature of the Church whence it comes. Now, with regard to this supremacy and spiritual government. Have you power to say to the queen *Tibi dabo claves?* Have you power to bid her *Pasce, pasce, pasce?* Have you power by act of Parliament to bid her *Confirma tuos fratres?* Can you empower her to excommunicate and minister spiritual punishment? Can you make a woman supreme head of the Church?" Thus Heath, arguing as if the title of supreme head had been to be renewed by Parliament instead of taken away, and as if the supremacy had been now wrongfully transferred from a foreign personage who never had it, and newly given to the English sovereign; whereas the act only professed "to restore to the crown the ancient jurisdiction over the estate ecclesiastical and spiritual."

Bishop Scot of Chester also spoke against the bill on the third reading. "I reverence," said he, "the work of the noblemen to whom this bill has been committed; Treasurer Winchester, the Duke of Norfolk, the Earls of Westmoreland, Shrewsbury, Rutland, Sussex, and Pembroke, the Marquis Montague, Lords Clinton, Morley, Rich, Willoughby, and North, and the Bishops of Exeter and Carlisle; for there is nothing in the bill as to altering the service in the Church, and the due administration of the holy sacraments; they will not suffer it; and they have mitigated the extreme penalties mentioned in the bill for gainsayers for their charity and pity toward the poor clergy of this realm. But unity is to be maintained in the Church, as order and concord in the civil State. Every village has one constable, every hundred one head constable, every shire one sheriff. All the constables are under the head constable, all the head constables are under the sheriff, and all the sheriffs are under the prince. So in the Church. Every village has a priest, every city has a bishop, every

province has a metropolitan. All the priests are under the bishop, all the bishops are under the metropolitan, and all the metropolitans are under the pope.

"Head governor of the Church cannot be applied to any temporal prince. Our Saviour Christ neither gave spiritual authority to princes nor diminished their temporal authority. It will be objected against me that the texts that I have quoted to this end, against the supremacy of princes, make nothing for the primacy of Peter; that the texts concerning Peter refer to the other Apostles equally, or refer to him alone and not to his successors. But consider this, that the succession of Peter alone continues in the Church, not the succession of any of the other Apostles; that the same dangers of infidelity and heresy that were in Peter's days ceased not in the days of his successors, so that the places that refer to Peter refer to his successors, and it was provided that it should always be known where Peter's faith was to be sought and found, if it were anywhere lost. How otherwise shall we stay ourselves wavering in this our time? At this present there be thirty-four sects of opinions in Christendom, all differing from the Catholic Church, and yet all constantly challenging Christ to be their Foundation by Scripture, and all confessing Christ to be the Son of the living God, in the words of Peter's confession. I think then that by the Stone was meant Peter and his successors, to whom men may safely cleave, as it has been seen for fifteen hundred years and odd. By the evangelical voice of our Saviour, and by no councils or synods, was this authority of which we speak given to the Holy See, as is declared in the preface of the council Nicæa.

"The Greek Church continued under Rome eight hundred years, fourteen times has it returned to Rome, and now that it is departed from Rome, it has fallen into extreme misery. So Germany, so Poland, so Denmark: look at the calamities of these countries, in which, however, no prince has ever taken upon him to be called supreme head. They are departed indeed from Rome, but their departure diminishes not the authority of Rome, more than the loss of Normandy or France or Scotland takes away the imperial authority of England, but that it is an imperial crown still. It is alleged that it was by a provincial council or assembly of the clergy of the realm of England that the authority of the pope was abolished, and some inculcate this against us as a matter of great weight. But no provincial or particular council can make a determination against the universal Church of Christ.

And the learned men who were the doers of that, as many as are dead repented of their act before they died, and those that live have openly revoked the same. The doctrine of our adversaries is not yet fifty years old. If a man should ask them of whom they learned it, they would say of the Germans. And of whom learned it the Germans? Of Luther. And of whom learned it Luther? He shall answer for himself. In one of his books he says that such things as he taught against the mass and the blessed sacrament of the altar he learned of Satan the devil. At whose hands it is like that he received the rest of his doctrine. Luther acknowledges the Devil to be his schoolmaster in divers points of his doctrine."

### § 7. *Arguments against the Act for Uniformity*

Against the other great measure, the Act for Uniformity, which restored the English service, the oration of Feckenham, the only abbot in this, the last abbot that sat in any Parliament, repeated with some emphasis several arguments that had not been unheard before. King Lucius and his fabulous embassy, and the Roman emissaries, Damianus and Faganus, came out again, and the alleged antiquity of the papal doctrine. "Here are two kinds of religion propounded, — the one fourteen hundred years old, the other here set in a book to be received and established by authority of this Parliament, and to take effect next midsummer. Which of these is the more steadfast and agreeable with itself? Is it that which has a new book devised every other year, every new book according to the sincere word of God, and never a one of them agreeing in all points with the other?" He went on to point out, not with extreme accuracy, the differences between the First and Second Book of Edward. And he ended with a lamentable description of the disorders, the lawlessness, the running before the law, which marked the new religion. "Which of these religions breeds the more humble and obedient subjects? In good Mary's days the people lived in order, and ran not before the law. There was no spoiling of churches, no pulling down of altars, and blasphemous treading of sacraments under foot, and hanging up of the knave of clubs in the place thereof. There was no scotching and cutting of the face and legs of the crucifix and image of Christ; no flesh eating and shambles kept in Lent and days prohibited. In Mary's days the subjects, especially the nobility, knew the way to churches and chapels, there to begin the day with prayers:





but since the coming of Elizabeth our dear lady and queen, all things are turned upside down by the preachers and scafford-players of this new religion. Obedience is gone, humility is abolished, chastity and strict living denied." But Feckenham's recollections were perhaps of more value than his arguments.

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# CHAPTER VIII

## EUROPE AND ENGLAND IN THE ELIZABETHAN AGE

No one can hope to understand the domestic politics of Queen Elizabeth's reign without reference to the political and ecclesiastical events and movements on the Continent. The Counter-Reformation, the untiring and ceaseless activities of the Jesuits in England, and the papal bull excommunicating Elizabeth threatened the foundations of the settlement reached in the English Church and State. Dangers from uprisings called forth by the possibilities of foreign intervention led to persecutions out of harmony with the original policy of the queen. Political plots helped to bring Mary Stuart to the block, and the conflict with Philip of Spain drew English sailors out into the high seas, thus contributing to the founding of England's world trade and empire. The most remarkable attempt to trace the relation between English politics and continental affairs is by Professor Seeley in his two volumes on the *Growth of English Policy*. In the third chapter of his first volume he gives a concise and illuminating description of the religious situation in the second half of the sixteenth century.

### § 1. *Elizabeth and English Insularity*[1]

Elizabeth stood in a singular degree disconnected from the royal caste. Never have we seen a sovereign so completely English. Not only was she English by birth on both sides, but her relatives were all English, and no foreign prince or princess anywhere existed who could count kinship with her. That a sovereign so isolated should reign over England for forty-five years was a fact of great

[1] Seeley, *Growth of British Policy*, Vol. I, Part I, chap. iii. By permission of the Cambridge University Press.





importance in English history. It concurred with that other fact, the new solidarity of the English and Scotch created by the Reformation, to heighten our insularity. The English State in former times had not been properly insular, since on the one hand the royal house was French and had possessions in France and foreign affinities, and on the other hand Scotland was foreign and had foreign alliances. It was not insular, since its frontier was not maritime but continental. But now the Continent had moved away from us and Scotland had drawn nearer. Elizabeth already rested on a party which was partly Scotch, partly English. An insular power began henceforth to grow up, and nothing could be more favorable to the growth of it than that it should be ruled for well-nigh half a century by a sovereign so absolutely free from foreign entanglements.

### § 2. *Religion as a Political Factor — Lutheranism and Calvinism Contrasted*

We are now to watch the gradual growth of a new danger, which in thirty years grew to such a point that we were exposed to a great invasion on a scale hitherto unparalleled, and found our policy drawn permanently into a different course.

A new age is introduced by two new movements, by the Huguenot movement in France, and by the disaffection in the Low Countries against the government of Philip. Both these movements are religious, and in both of them the Reformation appears in resolute opposition not only to the Church but also to the established government.

This was the most striking novel feâture of the new religious movement now beginning, which may be called the second or Calvinistic Reformation. Hitherto the Reformation had been opposed indeed to the hierarchy, but had been loyal to the government, as on the other hand government had been the agent of the Reformation. Luther's inclination to the side of the State had been from the outset very decided, and had been avowed by him with characteristic energy at the time of the Peasant Revolt. And almost universally down to the time now before us, the new religious system had been introduced under the authority of the State. In England this was perhaps most manifestly the case, where the author of the Reformation was the king himself, and where the accession of a new sovereign changed the aspect of the national religion three times successively. But it was also the

case substantially abroad throughout the Germanic and Scandinavian world. In the North the leader of reform was Gustav Wasa, the first king of Sweden, so that the Reformation was a principal factor in the original composition of the Swedish monarchy. In the German Empire and the Swiss Confederation local government was strongly developed and central government was weak. In Switzerland the Reformation was adopted, where it was adopted, by the councils of the great towns. In the empire it was adopted under the authority of princes, such as the electors of Saxony and Brandenburg and the Landgrave of Hesse, within their own territories; and at first actually with the permission of the Diet, though this permission was afterwards withdrawn. Scarcely anywhere in the Lutheran Reformation had religion been made a ground or justification of rebellion.

But now in Scotland a different precedent was set, where reformation and rebellion went hand in hand, where a disaffected party openly attacked the mass as idolatrous and established a new religious system by open resistance to authority. And only in this way would it be possible for the Reformation to find an entrance either into France or into any part of the dominion of Philip. For in both those regions the central government was strong and Catholic. There were here no principalities, bishoprics, or municipalities so independent as to be practically sovereign, and linked together only by a federal diet whose decrees could easily be resisted. And yet at this time the Reformation as an influence was in some respects more irresistible than ever. Calvin, who from Geneva still directed the whirlwind, had given it a systematized doctrine, and it had by this time the prestige of many triumphs. Accordingly, the Reformation begins once more to be powerfully aggressive, and its aggressions now necessarily take the character of rebellions against the State.

This is the innovation which gives its character to the new age. It transferred controversy into another region. The last generation had arraigned the Church, accusing it of a departure from primitive Christianity; this generation called in question the authority of the State, inquiring whether rebellion might not in certain circumstances be lawful. The question was at first raised in behalf of the Reformation, but it may be doubted whether the Reformation profited by it and whether it ought not to be reckoned among the principal causes of the Counter-Reformation. For it was a weapon which could easily be turned against the Reformation. If Calvin's followers might claim, in certain circumstances, the





right to rebel against a Catholic sovereign, might not *a fortiori* a Catholic people rebel against a Protestant, a heretical sovereign? It was an ancient pretension of the papacy, a pretension which had often been allowed, to dictate to kings and in case of contumacy to punish or depose them, and such a claim was not only less novel, but might seem less presumptuous, when urged in the name of the Catholic Church than when advanced by a modern sect. Now in the Lutheran period, when the Reformation and government went together, several monarchies had attached themselves to the Reformation. Such monarchies then were henceforth exposed to the rebellion of their Catholic subjects.

### § 3. *The Religious Situation on the Continent*

The age upon which we now enter is one of the most intense and terrible that Europe has ever experienced. It may be said to be the last of the theocratic ages, for it is an age in which ecclesiastical influences take the lead as they had done in the days of Innocent or Hildebrand and as they have never done since the close of the sixteenth century, not even, as we shall find, in the Thirty Years' War. But the superiority is most signally on the Catholic side. The tendency, the irresistible drift, of the time is toward the Counter-Reformation, not toward the Reformation. It is the more necessary for us to recognize this because at this very time England asserted her insular character in the most emphatic manner by deciding irrevocably in favor of the Reformation. Let us look, then, at the broad result of the struggle.

At the very beginning of the period all germs favorable to the Reformation were utterly extinguished in Spain and Italy.

In France, the principal arena of the contest and where at the outset the Huguenot party showed all the eager zeal which we are apt to consider a sure sign of victory, the Catholic cause nevertheless came out signally and decisively victorious. All that zeal could not save the Huguenots from being deserted by their heroic leader, and the toleration they ultimately secured was but the commencement of a long decline, but a halfway house between the St. Bartholomew and the dragonnades.

In the Low Countries ten out of seventeen provinces were won back to Catholicism, and have remained faithful to it ever since.

Poland and, somewhat later, Bohemia, were won back to Catholicism.

In Germany, the home of the Reformation, which Charles V

had probably regarded as irretrievably given over to the Reformation, an immense reaction took place, so that the whole southern part of the country was recovered to Catholicism.

For all these losses the Reformation had on the Continent only one compensation, — the seven provinces of the United Netherlands. These were successfully torn from the very hands of Philip. No very considerable acquisition territorially! But in the seventeenth century this reformed community showed an astonishing vigor and attained a prodigious prosperity.

This on the Continent was the only new acquisition. But the Reformation retained what it had acquired in the days of Luther, — the Scandinavian kingdoms, three great electorates, and the richest of the Swiss cantons.

### § 4. *England and the Continental Situation*

It is a surprising proof of the insularity which was beginning to characterize us that we remained undisturbed by this irresistible drift, and settled down, both England and Scotland, to the Reformation in this very period. Probably nothing short of this could have saved the cause of the Reformation in the world.

As we were so little influenced by the movement of the Counter-Reformation, the question arises how we became involved in the wars that accompanied it. We enjoyed for a time the security that resulted from the fact that Philip had his hands full in the Low Countries and that the French government was occupied with the Huguenots, while neither of those powers wished the other to acquire influence over England. How happened it that after a time this security was lost, and that in the end we drifted into a great war with Spain?

That first phase of Elizabethan policy which we have sketched is merely the necessary effort by which at the outset she secured her throne. Her reign itself now begins, and we may already make a general reflection on the character which English policy must necessarily have had in the Elizabethan age. The position of our State among states and the dangers to which it was exposed were wholly unlike those to which we have since been accustomed. Policy could not then be determined by considerations of trade or colonial empire, as in the eighteenth century; nor had we yet begun to look wistfully towards the Low Countries or to apprehend the encroachments of France. We had, indeed, our keen anxieties, but they were of another kind, — of a kind which passed away with





the Elizabethan age. In foreign as in domestic policy, everything turned on the questions of succession and of religion, and these two questions were intimately connected.

Would it be possible for Elizabeth, a heretic and the daughter of Anne Boleyn, to support herself long upon the throne? Was she not likely, like her brother and sister, to die early, and if so, who would succeed her? Could a heretic be permitted a second time to mount a throne? Reformation was giving place to Counter-Reformation, and this was about to strike a great blow for universal dominion. The visible claimant to the succession, Mary of Scotland, adhered to it. It appeared, therefore, as if the country were approaching a new revolution, which would arrive either with the death of Elizabeth or with her fall through some attack made upon her by the powers of the Counter-Reformation.

The great problem of policy then was how to avert such a catastrophe. In general there seemed but one way of doing this, a way characteristic of the Habsburg age. New heirs must be provided, that is, marriages must be made. Elizabeth must take a husband, Mary Stuart must take a husband. In this way events might be brought about within Britain similar to those which had already transformed the Continent. England and Scotland might be united as Castile and Aragon had been; at the same time it would be decided whether this insular state should belong to the Reformation or to the Counter-Reformation. Such is the problem of the Elizabethan age stated in its most general form. When now we survey the age itself as a whole, it is seen to consist, first, of a long period of drifting into war with Spain; secondly, of the war itself, which did not actually come to an end, though it was practically decided, before Elizabeth's death. On the threshold then we meet the question, What caused the drift toward war, since Elizabeth could in no case desire war with the greatest power in the world, nor could Philip desire war with England for its own sake, being already overburdened? And the answer which presents itself is this, That the religious crisis was just then so intense as to take the initiative out of the hands of governments and to hurry them against their will into war. In short, the solution lies in the word *Counter-Reformation*. But what precisely does this word convey? That it does not mean merely that inevitable reaction which follows a great movement of opinion, not merely a certain disappointment in the results of the great undertaking of Luther, or a certain fatigue and sense of failure, follows from what has just been said. As we have seen, the religious parties, Catholic

and Protestant alike, had begun to defy the civil government. This innovation could not but give an immense advantage to Catholicism, not only because it exposed the Reformation governments, which were mostly somewhat imperfectly established, to the rebellion of the Catholic subjects, but also because it provoked to deadly hostility against the Reformation the Catholic governments, among which were the greatest in the world. And thus we see that Philip never for a moment negotiates or offers to bargain with heresy, as Charles V had repeatedly done.

But we also perceive that the Catholic party must have acquired in the sixties of the century some new resource of immense importance, so suddenly and overwhelmingly does the tide turn in their favor. About 1560 Catholicism seems to be falling into its final dissolution, England and Scotland having been lost, and France seeming likely to follow them, while Philip has but recently waged open war with the papacy. Twenty years later all is changed, and throughout the Continent the impression prevails that the struggle is well-nigh over and that the Reformation is defeated. And the change was lasting. Never since has the Reformation recovered the ground it lost so unexpectedly in those years. Such is the Counter-Reformation, one of the greatest events in the history of Europe, and as a matter of historical curiosity more interesting because more difficult to understand than the Reformation itself.

### § 5. *Reform at Rome*

For this very reason, however, we must resist the temptation of discussing it further than as it concerns English policy. We have to inquire not into its remote causes or successive phases, but merely into the cause which at this particular moment imparted to it such an overwhelmingly practical force. The Counter-Reformation first enters into history properly so called with the election of Caraffa to the papal chair in 1555. This was indeed a startling event. It removed that grievance which for something like two centuries had driven pious minds almost to madness, the grievance that the Vicar of Christ was not Christian at all, but either heathen or something worse. At the beginning of the fifteenth century the Vicar of Christ had been convicted of piracy and sodomy, and at the end of it he had been a notorious poisoner and murderer. Except one or two urbane humanists such as Nicholas V or Pius II, scarcely any pope since the fourteenth century could





seriously pretend to the Christian character, though several had shown remarkable heathen qualities. With Paul IV the papacy became religious again, and on the whole it has retained that character ever since.

But it seemed for a while that this purgation of the papacy was likely rather to destroy it at once than to rejuvenate it. Paul IV stands with Clement VII as the most unfortunate of the popes. The devout fanatic inflicted on Catholicism a wound almost more serious than that which was inflicted by the hardened worldling. His headstrong zeal threw away England and Scotland, alienated France, and broke with Philip. Under his successor, Pius IV, new measures were adopted expressly on account of the desperate extremity to which the Church was reduced.

It was soon, however, shown that the ill fortune of Paul IV had not been caused by the daring courage with which he had asserted the religious character of the papacy and its independence of secular interests, but by an eccentricity quite peculiar to himself. Caraffa was not simply a devoted Catholic, but also an enraged Neapolitan politician, a leader of opposition to the Habsburg interest. His mortal enemy along with the Reformation was Philip of Spain, and he had two ends in view at the same time, — the one to crush heresy, the other to drive the Spaniards out of Italy. Now if anything was certain it was this, that in that age Spain and Catholicism must advance or retreat together; that the Spanish power was the only weapon with which the Church could fight the Reformation, and that Philip was the true nursing-father to whom the Church must look, and truly though not nominally the Christian emperor of the time. To measure forces was not the talent of the fanatical Neapolitan, and he had no conception that his hatred for Philip undid whatever his devotion to Catholicism was able to achieve. He stands out in history as the man who severed forever the tie between Britain and the Roman Church, and he did this, it would appear, not simply by want of tact or patience in dealing with Elizabeth, but from his animosity against Philip, which led him to regard the whole Marian movement with disfavor because the Habsburg interest was promoted by it. . . .

### § 6. *Council of Trent and Elements of the Catholic Reformation*

It was Pius IV who reassembled the Council of Trent, and now at last brought its sittings to a satisfactory conclusion. In the year 1564 this was accomplished. And this is the great

occurrence which launched the Counter-Reformation upon its triumphant career.

That the council, which had failed under Paul III and again under Julius III, did not fail a third time, was due in the first place to the fact that Charles V was gone. So long as there was an omnipotent emperor, the discord of pope and emperor was as incurable as in the days of the Hohenstauffen. But Ferdinand with his modest pretensions and character excited no similar jealousy. Moreover, the Peace of Cateau-Cambresis had not only terminated the wars which had disturbed the council in its earlier periods, but had actually united the Habsburg and the Valois by a marriage tie. Further, the papacy saw no hope but in a successful termination of the council, and was content with such a termination as would give unity and a fixed programme to the Catholic Church as it stood, renouncing the hope of suppressing heresy in those countries where it was established. That the papacy now at last wished the council to succeed, was the greatest cause of its success. Still the obstacles for a time seemed insurmountable. For the Papal See had all along held and continued to hold the council firmly in its grasp through its legates, who retained the right of initiative, and through the superior number of Italian bishops. But how could the papacy in its weakened state succeed in overcoming the opposition of the bishops who claimed an independent authority, especially as a third failure seemed likely to have fatal consequences?

It appealed from the bishops to the sovereigns. Neither the Habsburgs nor the Valois, any more than the pope, desired to see their own bishops invested with an independent spiritual power. Philip, in particular, was well aware that his internal authority depended mainly upon the control he exercised upon the Church by patronage and through the Inquisition. Accordingly by informal concordats, as it were, negotiated by Cardinal Morone with Ferdinand, Philip, and the Cardinal of Lorraine (Guise) for Charles IX, a settlement was reached, and what we may call modern Catholicism was called into existence.

Up to this time the Counter-Reformation had consisted of the following elements: (1) The new form of religion represented by Caraffa. This was a spirit of relentless orthodoxy, which was indigenous in Spain, but through Caraffa and Michel Ghislieri had spread to Italy, and had now taken possession of the Papal See itself. Its main instrument was the Inquisition, and it had created a religious Reign of Terror in Spain and Italy such as

Mary Tudor had introduced in England. (2) The influence of the Order of Jesuits, which just at this time began to be widely diffused — Loyola died in 1558 — and which, we are to observe, had also its origin in Spain. (3) Local movements in favor of Catholicism, especially in Spain and France. The unquestioning crusading orthodoxy of Spain was the greatest of all the forces which made up the Counter-Reformation; but it was beginning to appear that the French mind also was radically adverse to the Reformation. The principal cause of this seems to lie in the influence of the University of Paris, the original home of the scholastic theology. (4) As a consequence of this, the authority of the two greatest governments in the world, that of Philip and that of the French king, the latter being seconded by the influence of the Guise family to which Mary Stuart belonged.

These influences made up a formidable aggregate when once the disturbance created by the eccentricity of Caraffa was removed. But they became formidable indeed, nay, almost overwhelming when they were all, as it were, bound together, and when the principles involved in them were codified by the Council of Trent in 1564.

It was easy for the Reformers to make out a case against the council, and to urge that when the papal authority itself was the question to be tried by the council, it was an absurdity that the conduct of the council should be put in the hands of the pope. But such reasonings could not prevent the decisions of the council when they had once been arrived at, when they had become a matter of history, from exercising a prodigious and durable influence. All the world remembered that twelve hundred years before, when the Arian heresy had threatened the Church, a council had been held, and that its decisions, though long contested, had prevailed at last and still formed the foundation of Christian orthodoxy. It was natural to think that Luther would share the fate of Arius, and that the Spaniard Philip would now establish orthodoxy as the Spaniard Theodosius had done then. And together with the memory of the Council of Nicæa the memory of the great councils of the fifteenth century could not but exert its influence. The word *reformation* was not invented in Luther's time; a century before "Reformation in head and members" had been the watchword of a great ecclesiastical party. And at that time the principle had been laid down that the final appeal lay to a general council. A general council, it was said, was superior to the pope. And this principle had so far prevailed that Pope John XXIII had actually

been deposed by the Council of Constance. The movement had indeed proved in the end abortive, but it had left behind it a fixed opinion that the legal method of reformation in the Church was by a general council. It might, indeed, be questioned whether infallibility resided in the pope; but, if even a general council could err, what prospect remained for the unity of the Church? And so there were many to whom Luther first appeared as revolutionary when he was heard to say at Leipzig that general councils have erred.

### § 7. *Altered Character of Catholicism after* 1564

Might it not then reasonably be held when in 1564 the Council of Trent separated, its work being done, that the religious question was now at last settled, that the Reformation in head and members for which two centuries had prayed was now at last complete? The papacy was once more religious, the taint of heathenism and secularity was really in a great degree purged away, and the council had really decreed some useful reforms. What more could be desired? What excuse for heresy still remained? Might it not be fairly conjectured that Luther himself, who had been driven into a revolutionary course by the monstrous wickedness of Medicean Rome and the impudence of Tetzel, would never have raised a protest if he had seen Rome under the pious influence of Carlo Borromeo?

In short, the Counter-Reformation was itself undeniably a great and real reformation, and this fact materially altered the position of those states which had followed Luther or Calvin. The Medicean or Farnesian papacy was so notoriously heathenized that the cry, "Come out of her," might fairly be raised by earnest Christian teachers, as indeed the appalling sack of Rome under Clement VII had been felt throughout Italy as a just judgment of the Most High. But that judgment had done its work. Gradually but completely the papacy had become once more a religious institution. And under its control a general council had decreed a reform of the whole ecclesiastical system which was undeniably serious and considerable. On what ground, then, could Lutherans and Calvinists still justify their secession? On the ground that they disapproved the decisions, dogmatic or other, arrived at by the council? This was at least a new ground, different from that which Luther had taken at the outset. Was it not a ground which might have been taken by any of the heretical sects of the times between Constantine and Heraclius?





What they might and did answer to arguments like these, of course we know. But we may admit that Catholicism had now assumed a position in which, if it chose to call itself exclusively the Christian Church, it would have all tradition on its side. The malcontents had appealed to a general council; a general council had now spoken. Reformation had been clamorously demanded; reformation had been granted. Objections might perhaps be urged to the procedure of the council; but, on the whole, which party had followed precedent more faithfully, that which reformed the Church altogether by means of a council, or that which reformed it piece by piece through the agency of a town council excited by the eloquence of a preacher?

Catholicism then became after 1564 the conservatism of Christendom, and we use conservatism here in its better sense. It was neither the conservatism of indifference nor that of dulness and sloth, but a conservatism such as pious and modest minds might embrace and a conservatism favorable to practical reform. Such it was on the Continent; but we in Britain, as I have said, were unaffected by the movement which called it into existence.

It rested in the first place upon this broad basis of conservative feeling. In the second place, it rested upon a most powerful coalition between the great sovereigns and the papacy. That Guelf-Ghibelline discord which had paralyzed the Church in the time of Charles V had disappeared. Philip, Ferdinand, and Charles IX were now substantially at one, and united with the pope in favor of the dogmatic part of the work of the council. Pius IV had deliberately invoked and purchased the aid of these secular princes.

But we are now further to note that the spiritual power had by no means made itself purely subservient to the temporal. It is the peculiar feature of this age that within the Catholic party the religious influence is once more supreme. The new-born religious zeal of the papacy did not soon pass away. Caraffa was the first of a long line of popes who all alike were either themselves inspired by it or found themselves hurried along by the current. The model pope of this school is the Ghislieri, Pius V, who died in 1572. His zeal was purely religious, nor could any man hold himself more superior to those worldly considerations or those intrigues which had made the whole policy of the Medicean papacy.

The result is that after 1564 international politics begin to be controlled by a new influence. Hitherto we have seen them determined by the family interests of the great European houses, the Habsburg and the Valois. But now for a time the religious influ-

ence is supreme. The regenerated Catholic Church is for a while the mistress of the world, as in the time of the Crusades. It is felt that the Council of Trent ought to be followed by the suppression of heresy everywhere, as of a thing no longer excusable.

What has been called here the reconversion to Christianity of the Papal See is one of the most remarkable passages in the whole history of the Church. It has been, however, obscured from the view of Protestants by the fact that the Christianity of a Caraffa or a Ghislieri seems to them no Christianity. Assuredly it was not the evangelical religion that we find in the New Testament. It had little of "sweet reasonableness" or of "sweetness and light." It was in one word not the Christianity of Jesus but the Christianity of Hildebrand and Innocent. It was a religion of Crusades and of the Inquisition. Its principal achievements were the St. Bartholomew and the *autos da fe* of Philip II, and it may no doubt be argued with much plausibility that a Medicean surrounded by artists and humanists did more real good at the Vatican than a Ghislieri among his inquisitors. Indeed, the decline of Italian genius both in art and literature went hand in hand with this revival of religion. But though it may have been a dark type of religion, yet the new spirit which began at this time to animate the papacy has all the characteristics of religion, as the old spirit with all its amiability and urbanity was consciously and frankly irreligious. A Luther would not have regarded Pius V with the feeling of horror with which Leo X affected him. Luther, full of religious feeling, seemed to see in Leo Antichrist in person, and none the less because of the pictures and the poems. But perhaps there never lived a man who conveyed a more pure impression of religiousness than Pius V. He who brought Carnesecchi to the stake, who charged his soldiers, when they parted for France, to give no quarter to Huguenots, he of whom no one doubted that had he lived four months longer so as to see the St. Bartholomew, he would have yielded up his breath with a most exultant *Nunc dimittis*, was nevertheless a saint, if devotion, single-mindedness, unworldly sincerity, can make a saint.

It has often been remarked that Christianity has taken several great typical forms. We see in Cyprian and Augustine the gradual growth of a Latin Christianity, the characteristics of which Milman has so luminously discriminated. Luther may be said to have created Teutonic Christianity. The new development we have now before us resembles these in being the result of a blending of Christianity with the spirit of a particular nation. It is





Spanish Christianity. Its precursors in past time had been Dominic in the distant thirteenth century, and more recently Queen Isabella, whose image may be traced among ourselves in her granddaughter, Mary Tudor. Caraffa himself had passed many years in Spain. Philip and Alva, both Spaniards, were the statesmen of the movement. The Spaniard Ignatius Loyola was its apostle. In Spain alone it seems a natural growth, and thus, while in Italy we find it fatal to genius, it exerts a less withering influence there, and in its great literary representative, Calderon, can boast of one of the great poets of the world. The circumstances of Spanish history explain the peculiarity of it. Its merciless rigor toward heterodoxy is not only in accordance with the Spanish character, but it was the natural result of a historic development which had been wholly determined by wars of religion.

These general remarks prepare us to regard the year 1564 as introducing a new age. A final attempt was now to be made to restore the unity of Christendom in accordance with the decrees of the Council of Trent by putting down the heretical sects which in nearly half a century since the first appearance of Luther had been allowed to acquire such influence. Thus a great trial is preparing for England.

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# CHAPTER IX

## THE GROWTH OF PURITANISM

THE religious beliefs which were to complicate the political and constitutional questions of the seventeenth century had gained strong hold in England before the death of Queen Elizabeth. The revolt against the old Church had given authority a severe blow; the multiplication of books through printing had helped to break up the uniformity of ignorance and indifference which characterized the lower classes in the Middle Ages. Weighty theological questions which had been reserved to the learned in earlier days became matters of common controversies. The ferment of intellectual activity began to work among the people, and quite naturally theology was the subject-matter of that newly awakened interest. Thus it was that Puritanism, with its emphasis on moral discipline and individual conscience, sprang into existence, and contributed greatly to that independence among the people which resisted political as well as religious authority. On this topic, John Richard Green wrote with great sympathy and insight.

### § 1. *Position of the Bible in Elizabethan Literature*[1]

No greater moral change ever passed over a nation than passed over England during the years which parted the middle of the reign of Elizabeth from the meeting of the Long Parliament. England became the people of a book, and that book was the Bible. It was as yet the one English book which was familiar to every Englishman; it was read at churches and read at home, and everywhere its words, as they fell on ears which custom had not deadened, kindled a startling enthusiasm. When Bishop Bonner

[1] Green, *Short History of the English People*, pp. 460 ff. By permission of Mrs. John Richard Green.

set up the first six Bibles in St. Paul's, "many well-disposed people used much to resort to the hearing thereof, especially when they could get any that had an audible voice to read to them." . . . "One John Porter used sometimes to be occupied in that goodly exercise, to the edifying of himself as well as others. This Porter was a fresh young man and of a big stature, and great multitudes would resort thither to hear him, because he could read well and had an audible voice." But the "goodly exercise" of readers such as Porter was soon superseded by the continued recitation of both Old Testament and New in the public services of the Church; while the small Geneva Bibles carried the Scripture into every home. The popularity of the Bible was owing to other causes besides that of religion. The whole prose literature of England, save the forgotten tracts of Wycliffe, has grown up since the translation of the Scriptures by Tyndale and Coverdale.

So far as the nation at large was concerned, no history, no romance, hardly any poetry, save the little-known verse of Chaucer, existed in the English tongue when the Bible was ordered to be set up in churches. Sunday after Sunday, day after day, the crowds that gathered round Bonner's Bibles in the nave of St. Paul's, or the family group that hung on the words of the Geneva Bible in the devotional exercises at home, were leavened with a new literature. Legend and annal, war-song and psalm, state-roll and biography, the mighty voices of prophets, the parables of evangelists, stories of mission journeys, of perils by the sea and among the heathen, philosophic arguments, apocalyptic visions, all were flung broadcast over minds unoccupied for the most part by any rival learning. The disclosure of the stores of Greek literature had wrought the revolution of the Renascence. The disclosure of the older mass of Hebrew literature wrought the revolution of the Reformation. But the one revolution was far deeper and wider in its effects than the other. No version could transfer to another tongue the peculiar charm of language which gave their value to the authors of Greece and Rome.

Classical letters, therefore, remained in the possession of the learned, that is, of the few; and among these, with the exception of Colet and More, or of the pedants who revived a pagan worship in the gardens of the Florentine Academy, their direct influence was purely intellectual. But the tongue of the Hebrew, the idiom of the Hellenistic Greek, lent themselves with curious felicity to the purposes of translation. As a mere literary monument, the English version of the Bible remains the noblest example of the

English tongue, while its perpetual use made it from the instant of its appearance the standard of our language. For the moment, however, its literary effect was less than its social. The power of the book over the mass of Englishmen showed itself in a thousand superficial ways, and in none more conspicuously than the influence it exerted on ordinary speech. It formed, we must repeat, the whole literature which was practically accessible to ordinary Englishmen; and when we recall the number of common phrases which we owe to great authors, the bits of Shakespeare, or Milton, or Dickens, or Thackeray, which unconsciously interweave themselves in our ordinary talk, we shall better understand the strange mosaic of Biblical words and phrases which colored English talk two hundred years ago.

The mass of picturesque allusion and illustration which we borrow from a thousand books, our fathers were forced to borrow from one; and the borrowing was the easier and the more natural that the range of the Hebrew literature fitted it for the expression of every phase of feeling. When Spenser poured forth his warmest love-notes in the *Epithalamion* he adopted the very words of the Psalmist as he bade the gates open for the entrance of his bride. When Cromwell saw the mists break over the hills of Dunbar, he hailed the sun-burst with the cry of David: "Let God arise, and let his enemies be scattered. Like as the smoke vanisheth, so shalt thou drive them away!" Even to common minds this familiarity with grand poetic imagery in prophet and apocalypse gave a loftiness and ardor of expression that with all its tendency to exaggeration and bombast we may prefer to the slipshod vulgarisms of to-day.

But far greater than its effect on literature or social phrase was the effect of the Bible on the character of the people at large. Elizabeth might silence or tune the pulpits; but it was impossible for her to silence or tune the great preachers of justice and mercy and truth who spoke from the book which she had again opened for her people. The whole moral effect which is produced nowadays by the religious newspaper, the tract, the essay, the lecture, the missionary report, the sermon, was then produced by the Bible alone; and its effect in this way, however dispassionately we examine it, was simply amazing. One dominant influence told on human action; and all the activities that had been called into life by the age that was passing away were seized, concentrated, and steadied to a definite aim by the spirit of religion. The whole temper of the nation felt the change. A new conception of life





and of man superseded the old. A new moral and religious impulse spread through every class.

Literature reflected the general tendency of the time; and the dumpy little quartos of controversy and piety, which still crowd our older libraries, drove before them the classical translations and Italian novelettes of the age of the Renascence. "Theology rules there," said Grotius of England only two years after Elizabeth's death; and when Casaubon, the last of the great scholars of the sixteenth century, was invited to England by King James, he found both king and people indifferent to pure letters. "There is great abundance of theologians in England," he said; "all point their studies in that direction." Even a country gentleman like Colonel Hutchinson felt the theological impulse. "As soon as he had improved his natural understanding with the acquisition of learning, the first studies he exercised himself in were the principles of religion." The whole nation became, in fact, a Church. The great problems of life and death, whose questionings found no answer in the higher minds of Shakespeare's day, pressed for an answer not only from noble and scholar, but from farmer and shopkeeper in the age that followed him. . . .

### § 2. *The English Church*

Elizabeth's church policy rested on the Acts of Supremacy and of Uniformity, the first of which placed all ecclesiastical jurisdiction and legislative power in the hands of the State, while the second prescribed a course of doctrine and discipline from which no variation was legally permissible. For the nation at large Elizabeth's system was no doubt a wise and healthy one. Single-handed, unsupported by any of the statesmen or divines about her, the queen forced on the warring religions a sort of armed truce. The main principles of the Reformation were accepted, but the zeal of the ultra-Reformers was held at bay. The Bible was left open, private discussion was unrestrained; but the warfare of pulpit against pulpit was silenced by the licensing of preachers. Outer conformity, attendance at the common prayer, was exacted from all; but the changes in ritual by which the zealots of Geneva gave prominence to the radical features of the religious change which was passing over the country were steadily resisted. While England was struggling for existence, this balanced attitude of the crown reflected faithfully enough the balanced attitude of the nation; but with the declaration of war by the papacy in the Bull

of Deposition the movement in favor of a more pronounced Protestantism gathered a new strength.

Unhappily the queen clung obstinately to her system of compromise, weakened and broken as it was. With the religious enthusiasm which was growing up around her she had no sympathy whatever. Her passion was for moderation, her aim was simply civil order; and both order and moderation were threatened by the knot of clerical bigots who gathered under the banner of Presbyterianism. Of these Thomas Cartwright was the chief. He had studied at Geneva; he returned with a fanatical faith in Calvinism and in the system of church government which Calvin had devised; and as Margaret Professor of Divinity at Cambridge he used to the full the opportunities which his chair gave him of propagating his opinions. No leader of a religious party ever deserved less of after-sympathy than Cartwright. He was unquestionably learned and devout, but his bigotry was that of a mediæval inquisitor. The relics of the old ritual, the cross in baptism, the surplice, the giving of a ring in marriage, were to him not merely distasteful, as they were to the Puritans at large, they were idolatrous and the mark of the beast. His declamation against ceremonies and superstition, however, had little weight with Elizabeth or her primates; what scared them was his reckless advocacy of a scheme of ecclesiastical government which placed the State beneath the feet of the Church. The absolute rule of bishops, indeed, he denounced as begotten of the Devil; but the absolute rule of Presbyters he held to be established by the word of God.

For the Church modelled after the fashion of Geneva he claimed an authority which surpassed the wildest dreams of the masters of the Vatican. All spiritual authority and jurisdiction, the decreeing of doctrine, the ordering of ceremonies, lay wholly in the hands of the ministers of the Church. To them belonged the supervision of public morals. In an ordered arrangement of classes and synods these Presbyters were to govern their flocks, to regulate their own order, to decide in matters of faith, to admin ister "discipline."

Their weapon was excommunication, and they were responsible for its use to none but Christ. The province of the civil ruler was simply to carry out the decisions of the Presbyters, "to see their decrees executed and to punish the contemners of them." The spirit of Calvinistic Presbyterianism excluded all toleration of practice or belief. Not only was the rule of ministers to be





established as the one legal form of church government, but all other forms, Episcopalian and Separatist, were to be ruthlessly put down. For heresy there was the punishment of death. Never had the doctrine of persecution been urged with such a blind and reckless ferocity. "I deny," wrote Cartwright, "that upon repentance there ought to follow any pardon of death. . . . Heretics ought to be put to death now. If this be bloody and extreme, I am content to be so counted with the Holy Ghost."

### § 3. *Repression of Dissent*

The bold challenge to the government which was delivered by Cartwright's party in a daring "admonition to the Parliament," which demanded the establishment of government by Presbyters, raised a panic among English statesmen and prelates which cut off all hopes of a quiet appeal to reason. It is probable that, but for the storm which Cartwright raised, the steady growth of general discontent with the ceremonial usages he denounced would have brought about their abolition. The Parliament of 1571 had not only refused to bind the clergy to subscription to three articles on the supremacy, the form of church government, and the power of the Church to ordain rites and ceremonies, but favored the project of reforming the Liturgy by the omission of the superstitious practices. But with the appearance of the "Admonition" this natural progress of opinion abruptly ceased. The moderate statesmen who had pressed for a change in ritual withdrew from union with a party which revived the worst pretensions of the papacy. As dangers from without and from within thickened round the queen, the growing Puritanism of the clergy stirred her wrath above measure, and she met the growth of "non-conforming" ministers by a measure which forms the worst blot on her reign.

The new powers which were conferred in 1583 on the Ecclesiastical Commission converted the religious truce into a spiritual despotism. From being a temporary board which represented the royal supremacy in matters ecclesiastical, the Commission was now turned into a permanent body wielding the almost unlimited powers of the crown. All opinions or acts contrary to the Statutes of Supremacy and Uniformity fell within its cognizance. A right of deprivation placed the clergy at its mercy. It had power to alter or amend the statutes of colleges or schools. Not only heresy and schism and non-conformity, but incest or

aggravated adultery were held to fall within its scope; its means of inquiry were left without limit, and it might fine or imprison at its will. By the mere establishment of such a court half the work of the Reformation was undone. The large number of civilians on the board indeed seemed to furnish some security against the excess of ecclesiastical tyranny. Of its forty-four commissioners, however, few actually took any part in its proceedings; and the powers of the Commission were practically left in the hands of the successive primates. No Archbishop of Canterbury since the days of Augustine had wielded an authority so vast, so utterly despotic, as that of Whitgift and Bancroft and Abbott and Laud.

The most terrible feature of their spiritual tyranny was its wholly personal character. The old symbols of doctrine were gone, and the lawyers had not yet stepped in to protect the clergy by defining the exact limits of the new. The result was that at the commission board at Lambeth the primates created their own tests of doctrine with an utter indifference to those created by law. In one instance Parker deprived a vicar of his benefice for a denial of the verbal inspiration of the Bible. Nor did the successive archbishops care greatly if the test was a varying or a conflicting one. Whitgift strove to force on the Church the Calvinistic supralapsarianism of his Lambeth Articles. Bancroft, who followed him, was as earnest in enforcing his anti-Calvinistic dogma of the divine Right of the episcopate. Abbott had no mercy for Arminianism. Laud had none for its opponents. It is no wonder that the ecclesiastical Commission, which these men represented, soon stank in the nostrils of the English clergy. Its establishment, however, marked the adoption of a more resolute policy on the part of the crown, and its efforts were backed by stern measures of repression. All preaching or reading in private houses was forbidden; and in spite of the refusal of Parliament to enforce the requirement of them by law, subscription to the Three Articles was exacted from every member of the clergy.

For the moment these measures were crowned with success. The movement under Cartwright was checked; Cartwright himself was driven from his professorship; and an outer uniformity of worship was more and more brought about by the steady pressure of the Commission. The old liberty which had been allowed in London and the other Protestant parts of the kingdom was no longer permitted to exist. The leading Puritan clergy, whose non-conformity had hitherto been winked at, were called upon to





submit to the surplice, and to make the sign of the cross in baptism. The remonstrances of the country gentry availed as little as the protest of Lord Burleigh himself to protect two hundred of the best ministers from being driven from their parsonages on a refusal to subscribe to the Three Articles. But the persecution only gave fresh life and popularity to the doctrines which it aimed at crushing by drawing together two currents of opinion which were in themselves perfectly distinct. The Presbyterian platform of church discipline had as yet been embraced by the clergy only, and by few among the clergy. On the other hand, the wish of the Puritans for a reform in the Liturgy, the dislike of "superstitious usages," of the use of the surplice, the sign of the cross in baptism, the gift of the ring in marriage, the posture of kneeling at the Lord's Supper, was shared by a large number of the clergy and laity alike. At the opening of Elizabeth's reign almost all the higher churchmen save Parker were opposed to them, and a motion in convocation for their abolition was lost by a single vote. The temper of the country gentlemen on this subject was indicated by that of Parliament; and it was well known that the wisest of the queen's councillors, Burleigh, Walsingham, and Knollys, were at one in this matter with the gentry. If their common persecution did not wholly succeed in fusing these two sections of religious opinion into one, it at any rate gained for the Presbyterians a general sympathy on the part of the Puritans, which raised them from a clerical clique into a popular party. Nor were the consequences of the persecution limited to the strengthening of the Presbyterians.

### § 4. *The Development of Independency*

The "Separatists," who were beginning to withdraw from attendance at public worship on the ground that the very existence of a national Church was contrary to the Word of God, grew quickly from a few scattered zealots to twenty thousand souls. Presbyterian and Puritan felt as bitter an abhorrence as Elizabeth herself of the "Brownists," as they were nicknamed after their founder, Robert Brown. Parliament, Puritan as it was, passed a statute against them. Brown himself was forced to fly to the Netherlands, and of his followers many were driven into exile. So great a future awaited one of these congregations that we may pause to get a glimpse of "a poor people" in Lincolnshire and the neighborhood, who "being enlightened by the Word of God," and their

members "urged with the yoke of subscription," had been led "to see further." They rejected ceremonies as relics of idolatry, the rule of bishops as unscriptural, and joined themselves, "as the Lord's free people," into "a church estate on the fellowship of the Gospel." Feeling their way forward to the great principle of liberty of conscience, they asserted their Christian right "to walk in all the ways which God had made known or should make known to them."

Their meetings or "conventicles" soon drew down the heavy hand of the law, and the little company resolved to seek a refuge in other lands; but their first attempt at flight was prevented, and when they made another, their wives and children were seized at the very moment of entering the ship. At last, however, the magistrates gave a contemptuous assent to their project; they were, in fact, "glad to be rid of them at any price," and the fugitives found shelter at Amsterdam, from whence some of them, choosing John Robinson as their minister, took refuge in 1609 at Leyden. "They knew they were pilgrims and looked not much on these things, but lifted up their eyes to Heaven, their dearest country, and quieted their spirits." Among this little band of exiles were those who were to become famous at a later time as the Pilgrim Fathers of the *Mayflower*.

It was easy to be "rid" of the Brownists; but the political danger of the course on which the crown had entered was seen in the rise of a spirit of vigorous opposition, such as had not made its appearance since the accession of the Tudors. The growing power of public opinion received a striking recognition in the struggle which bears the name of the "Martin Marprelate controversy." The Puritans had from the first appealed by their pamphlets from the crown to the people, and Whitgift bore witness to their influence on opinion by his efforts to gag the press. The regulations of the Star Chamber for this purpose are memorable as the first step in the long struggle of government after government to check the liberty of printing. The irregular censorship which had long existed was now finally organized. Printing was restricted to London and the two universities, the number of printers reduced, and all candidates for license to print were placed under the supervision of the Company of Stationers. Every publication, too, great or small, had to receive the approbation of the Primate or the Bishop of London.

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phlets bearing the significant name of "Martin Marprelate," and issued from a secret press which found refuge from the royal pursuivants in the country houses of the gentry. The press was at last seized; and the suspected authors of these scurrilous libels, Penry, a young Welshman, and a minister named Udall, died, the one in prison, the other on the scaffold. But the virulence and boldness of their language produced a powerful effect, for it was impossible under the system of Elizabeth to "mar" the bishops without attacking the crown; and a new age of political liberty was felt to be at hand when Martin Marprelate forced the political and ecclesiastical measures of the government into the arena of public discussion. The suppression, indeed, of these pamphlets was far from damping the courage of the Presbyterians. Cartwright, who had been appointed by Lord Leicester to the mastership of an hospital at Warwick, was bold enough to organize his system of church discipline among the clergy of that county and of Northamptonshire. His example was widely followed, and the general gatherings of the whole ministerial body of the clergy and the smaller assemblies for each diocese or shire, which in the Presbyterian scheme bore the name of synods and classes, began to be held in many parts of England for the purposes of debate and consultation. The new organization was quickly suppressed, indeed, but Cartwright was saved from the banishment which Whitgift demanded by a promise of submission; his influence steadily increased, and the struggle, transferred to the higher sphere of the Parliament, widened into the great contest for liberty under James and the civil war under his successor.

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# PART V

# THE STUART CONSTITUTIONAL CONFLICT

## CHAPTER I

### OPENING OF THE CONSTITUTIONAL STRUGGLE UNDER JAMES I

BEFORE the death of Queen Elizabeth there were many indications that the nation was growing restless under the arbitrary practices which characterized Tudor absolutism. The bestowal of trade monopolies on private persons had been the subject of Parliamentary protest and the queen had promised relief; the custom of demanding freedom from arrest and liberty of speech for members had been fixed towards the close of her reign; and several times Commons had asserted the right of settling disputed election questions. Moreover, as we have seen, there were growing parties seeking to reform or subvert the Established Church, thus coming into conflict with the crown as the chief defender of the faith.

It was under such circumstances that James I ascended the throne of England. The number of members that attended the meeting of his first Parliament was itself an indication of the increasing interest of the country in political affairs and the harbinger of many a struggle to come. Unfortunately James was fitted neither by temper nor training for the task of governing at this time when tact and conciliation were indispensable to harmony, and at the very outset he initiated the quarrel which was destined to fill the seventeenth century with turmoil.

### § 1. *James I and the Puritans* [1]

In the gray hours of morning, March 24, 1603, watch and ward was kept in London streets; and in all the neighboring

[1] Trevelyan, *England under the Stuarts*, pp. 73 ff. By permission of G. M. Trevelyan, Esq., and G. P. Putnam's Sons, Publishers.





phlets bearing the significant name of "Martin Marprelate," and issued from a secret press which found refuge from the royal pursuivants in the country houses of the gentry. The press was at last seized; and the suspected authors of these scurrilous libels, Penry, a young Welshman, and a minister named Udall, died, the one in prison, the other on the scaffold. But the virulence and boldness of their language produced a powerful effect, for it was impossible under the system of Elizabeth to "mar" the bishops without attacking the crown; and a new age of political liberty was felt to be at hand when Martin Marprelate forced the political and ecclesiastical measures of the government into the arena of public discussion. The suppression, indeed, of these pamphlets was far from damping the courage of the Presbyterians. Cartwright, who had been appointed by Lord Leicester to the mastership of an hospital at Warwick, was bold enough to organize his system of church discipline among the clergy of that county and of Northamptonshire. His example was widely followed, and the general gatherings of the whole ministerial body of the clergy and the smaller assemblies for each diocese or shire, which in the Presbyterian scheme bore the name of synods and classes, began to be held in many parts of England for the purposes of debate and consultation. The new organization was quickly suppressed, indeed, but Cartwright was saved from the banishment which Whitgift demanded by a promise of submission; his influence steadily increased, and the struggle, transferred to the higher sphere of the Parliament, widened into the great contest for liberty under James and the civil war under his successor.

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counties men who had much at stake in time of crisis wove uncertain plans to meet the thousand chances that day might bring. For the last and greatest of the Tudor race had at length turned away to die, like one of her old Plantagenet ancestry, in fierce mood of scorn for the world which her patient valor had led into the forward path. Her death would bring about one of those rare occasions when the platitudes of national loyalty and unity, which have imposed on secure men for a whole generation, are put to the test of the event. It would now be seen whether all was really as officials asserted it to be; whether the new England had been built to stand for ages; or whether, after all, the party of the old religion and society was large, united, and determined enough to bring down all in ruin.

When day broke two horsemen were far on the northern road, each spurring to forestall the other at Holyrood with homage impatiently expected by the first ruler of the British Isles. At a more leisurely pace the Elizabethan statesmen were riding in from Richmond, where their mistress lay dead, to Whitehall gate, where at ten in the morning they proclaimed King James I. By employing as their spokesman Robert Cecil, who personified the late queen's system in Church and State, the Lords of the Council showed themselves agreed that there should be no revolution. The decision was silently indorsed by a grateful nation. In city and manor house men laid aside their arms and breathed again. Fast as the news spread, all consented and most rejoiced. The Puritan sailors, who had taken out their ships to guard against Popish invasion from the Flemish coast, put back to port; and the borderers who kept watch on Naworth turrets, learned from their mild Catholic lord, Belted Will Howard, that, since England and Scotland had one king, the northern sky-line was no longer the territory of a foe. So the work of Elizabeth stood the test of real consent, and the English people invited the royal line of Scotland to come and fill her place.

The first of these four Stuarts who have left their indelible negative impression upon England ushered in the tragedy of king and people with a pageant of royal progress from Berwick to London, which then excited to ecstasies the loyalty and curiosity of a simple nation, and has since, in the reflex light of all that followed, become a theme for the irony of historians. For a month of spring weather James rode south. The land seemed bursting into bud to welcome him, growing greener each day as the ever increasing train of courtiers wound slowly down out of

the north country into the midland valleys; through shouting market-places where the masque of welcome and the corporation with its address were lost in the press of men; by ancient steeples rocking with the clash of bells; along open roads hedged with countrymen who had come on pilgrimage across whole counties. There was hunting of the stag through the neighboring parks, when his Majesty might learnedly discourse to the foresters on the art of venery, and show how your Scotchman will blow a mort; while at night, in private mansions, the regal entertainment witnessed to the solid magnificence and free loyalty of England.

The man on whom the English thus first set eyes was by no means contemptible in person, in spite of grossly coarse manners. In the prime of life, over middle height, a good horseman, devoted to the chase, drinking hugely but never overcome by his liquor, he employed a pithy wit and a wealth of homely images and learned conceits in free and familiar discourse with all. Nor during the progress did he dispel the prejudice in his favor.

Above all he gave satisfaction by keeping Robert Cecil as his chief counsellor. He had, in fact, determined to maintain the system of Elizabeth, with this good change, — that henceforth the royal policy should display an acuteness and a largeness of mind worthy of a man of uncommon penetration and learning, who knew by theory how to outwit the pope, manage the king of Spain, convert the English Catholics by proclamations, and guide his other subjects on the path of unity and wisdom. The English people having been loyal even to Elizabeth, probably from their sense of the obedience due by right divine to all rulers, would be doubly loyal to one like himself, the living symbol of justice and reconciliation, the "Restorer," as he loved to hear, "of perpetual peace in Church and Commonwealth."

His naturally authoritative temper in politics was flattered both by his theories and his experience. His dogma of the Divine Right of kings was gleaned from the new theory of State now in favor among the monarchies of the Continent, better known to him than to his more ignorant and insular English subjects; while his experience of Scottish kingship had led him, during the years of life when opinions are formed, to see how necessary is royal authority to tame a fierce baronage and a frantic clergy. But he had devoted none of his studious hours to the department of learning that now most concerned him. He knew nothing of the peculiar laws and liberties of England, either in the spirit or the letter; he began by ordering a cut-purse who had been caught





preying on the crowd as he passed through Newark to be hanged without trial. When too late in life to profit by new knowledge, he discovered the existence of constitutional custom and Parliamentary privilege; he set them down in his logical mind as tiresome anomalies hampering government in its benevolent course. Nor would he consider local sentiment and English national jealousy, except to despise them as forces disintegrating his plans of peace and union.

As a man, James was one whom it is easy to love or to despise, but impossible to hate. Though every inch a pedant, he was human — far more human than his more noble and reserved successor. His instinct to sympathize warmly, except when annoyed or prejudiced, with any one who spoke to him, led to rapid and unconscious vacillations in his conduct. The more intimate friendships which were a necessity to his life, counteracted yet more disastrously his excellent intentions as a ruler. Choosing his favorites for no other merit but their charm as companions, he was too fond to deny them anything. Their power for evil was the greater, because he himself hated the details of administration, and loved to live in the abstract heights of a general scheme, oblivious of the monstrous distortions to which a plan is liable in action, and the terrible wrongs for which even a love of justice, if it despises diligence, can easily be made the cloak.

Beneath all his carelessness as to the ordering of his court, and in seeing to the execution of his commands, lay a will stubbornly adherent to a main course of a policy through years of ominous failure, when once he had persuaded himself that kingcraft required a certain attitude, whether towards Spain, towards the Puritans, or towards Parliament. Opposition, even if couched in reverent terms, aroused neither his admiration nor his curiosity, but only his spleen. Of cruelty, indeed, he had none. An opponent, especially if a subject, was a pitiable thing to be lectured and set aside. If, as in the case of his later Parliaments, opposition became too strong, he would resort to concession, but not to conciliation or to a change of front.

His most fatal defect was that, in spite of great acuteness and some originality in discovering points of vantage for himself and detecting weakness in his adversaries' position, he could never tell a good man from a rogue, or a wise man from a fool; still less could he distinguish the great currents of opinion and the main tide of political force from the bright, shallow eddies that catch and please a monarch's eye. The patriotism of Eliot repelled

him; the large political wisdom of Bacon appeared to him a rush-light rival to his own royal beam; the daring and unquiet genius of Raleigh was opposed alike to his peaceful instincts and his pedestrian intellect. Turning from all this varied wealth of excellence, he deliberately chose Carr and Villiers. One who thus judged of persons, was not likely to understand the real problems with which his kingcraft had in fact to deal; to penetrate the soul of Puritanism, or to recognize any purpose beyond that of thwarting good government, in the turbulent faction of the House of Commons.

In the first three years of James' English rule, each of the great problems of the coming century took an irrevocable turn. Against Puritans and against Parliament the king adopted in 1604 a position from which his stubborn character afterwards forbade him to retreat, and, by the time his son succeeded him, the continuous traditions of a long reign had established this principle as the very first of royal policy. In the same year, 1604, by making a wise peace with Spain, he prepared the way for his foolish friendship with Catholic powers which soon alienated nationalist feeling from the throne. In the winter of 1605 his attempt to secure the loyalty of the Papists by holding out alternately the olive branch and the sword ended in the Gunpowder treason; the event gave only a momentary impulse to the ever vacillating conduct of the Stuart monarchs towards their Catholic subjects, but it excited popular imagination to a panic which lasted with slight intermissions for more than a century. Thus all the main causes that twice combined to drive the Stuarts from the throne were in three fatal years set in motion by an overwise king.

Already during his progress from Scotland the new king had been met by the "Millenary Petition," presented by several hundred conformist Puritan clergy, in the hope that the doubtful toleration afforded them within the Elizabethan establishment, might under the new régime be changed for a secure and legalized comprehension. They were serving the Episcopal Church with sufficient loyalty to her form of government and her Prayer-book service, and with a missionary zeal and a pastoral energy to which no other section could pretend. In return they now asked, not for supremacy, but for security. The petitioners suggested that a clergyman should be allowed to choose for himself whether he would wear cap and surplice, and that he should not be required to declare his belief in the absolute truth of the whole Prayer Book, provided he signed the Articles and used the service. The





royal reply would be a test of much besides; if the new king was ready to tolerate Puritanism within the pale of the national Church, he would be ready to leave these points optional.

Other items of the Millenary Petition — the disuse of the sign of the cross in baptism and the bowing at the name of Jesus, the abridgment of the service, the simplification of music and chanting, the encouragement of preaching and sermons, the prevention of ecclesiastical pluralities and sinecures, the observance of Sunday, the non-observance of saints' days — were such as a wise monarch might have refused or left unanswered, on the ground than any strict order favoring the Puritans on these points would give offence to many clergy and to many congregations. But the moderation of even these requests, so different from the demand for the abolition of the episcopate haughtily advanced thirty years before, show the humble and conformist spirit of Puritanism at this auspicious moment, which James the peacemaker was fated to throw away.

In January, 1604, the king presided at Hampton Court over a conference summoned to consider the Petition. The bishops came up determined to oppose all compromise. As the death struggle against Catholicism gave ever more apparent promise of triumph, the Protestant zeal originally shown by Elizabeth's bishops had begun to cool; and when Cartwright had made his Presbyterian attack on their authority, they had grafted on to their Erastian pride of church office under the crown the yet loftier pretension that episcopal government is of Divine origin. Bancroft, Bishop of London, the champion of the new theory, took the lead at Hampton Court. On the second day of the session, when the principal demands of the Millenary Petition were to be discussed, he began by asking James to silence the Puritan divines on the high ground that Canon Law forbade schismatics to be heard against their bishops, and then tried to raise a silly laugh against the "Turkey gowns" in which the good men had thought fit to appear at the conference. But James was not going to lose the chance of a disputation. Rebuking Bancroft's unfairness, he assumed the part of the good-humored and talkative umpire of debate, hearing all in full, but deciding point after point against the Puritan spokesman, Dr. Reynolds. The session, however, came to a more stormy close. Reynolds proposed that the lower clergy should have the right of meeting in conference, and that the bishop should consult the synod of the diocese. At the word *synod*, redolent to James of the daily

humiliations of his youth among the rude lieutenants of Knox, the petulance which was always chafing under the crust of his learning and wisdom burst out in loose native fury. "If you aim at a Scottish Presbytery," he cried, "it agreeth as well with a monarchy as God and the Devil." Seizing up his hat to dismiss the assembly, he poured out, in a strain of colloquial epigram, the secret of the personal passion that dictated his policy: "How they used the poor lady, my mother, is not unknown, and how they dealt with me in my minority. I thus apply it. . . . No bishop, no king. . . . Well, Doctor, have you anything more to say?"— "No more, if it please your Majesty." "If this be all your party hath to say, I will make them conform themselves, or else will harry them out of the land." "In two minutes," as Gardiner says, "he had sealed his own fate and that of England forever."

On many points James was not out of sympathy with the Puritans. Unlike Charles I, he was not brought up in the atmosphere of Anglicanism; he cared nothing for ritual; he was a Calvinist in doctrine, and when he first entered England he was anxious to promote in his half-Catholic kingdom the pastoral and missionary propaganda which the Puritans alone carried on, in spite of episcopal discouragement. He had wished to settle endowments for the maintenance of preachers, until Archbishop Whitgift persuaded him that much preaching was a dangerous innovation. But the one point on which he differed completely from the Puritans was the relative authority of the bishops and their clergy. It was, in fact, not for speculative nor religious, but for political, reasons that he disliked the Puritans. He saw in them the sect that in Scotland had made his youth one long humiliation, his manhood one long struggle — men who would take the Lord's Anointed by the sleeve and call him "God's silly vassal." The English Puritans were at this stage of their career of a milder temper; but the policy of suppression by which James thought to "harry them out of the land" served to arouse in them the instincts which he most feared, and led them indeed to abolish bishops and to put his son to death.

When his first Parliament met in the spring of 1604, the House of Commons supported the Millenary Petition and the arguments of Dr. Reynolds. It escaped the king how ominous was the alliance; how considerable the fact that the flustered divines who had picked up their Turkey gowns and scurried from his presence amid the laughter of bishops represented the religion of the gentry and the towns of England. Such considerations gave him





no pause. It was enough for him to lecture Parliament on "Puritans and Novelists," "which I call a sect rather than a religion," "who do not so far differ from us in points of religion as in their confused form of policy and parity." In that sentence James summed up the mistake of his life. Because the Puritan leaders of the previous generation had desired a Presbyterian "policy" of church government, and a "parity" of clergy with their bishops, therefore the services and merits of all Puritans were to be overlooked; they were at once to be deprived of their benefices, and finally, together with all their lay adherents, "harried out of the land." James did not perceive that if they were allowed to continue their work in the Church and to take their fair place on the episcopal bench, the desire for "parity" would be kept in the background; while on the other hand, if they were driven out by the bishops, the Presbyterian "policy" would revive, with the arm of the House of Commons for its support.

As soon as Parliament had risen in July, the king informed the clergy by proclamation that unless before December they were ready to conform to all existing rules of church service, they would then be deprived of their livings. When the fatal month came round, Bancroft himself, elevated to the See of Canterbury, as a new broom to sweep the Church clean, eagerly set himself to carry out the orders of the king's council. All curates and unbeneficed preachers were required to sign a statement that the Prayer Book contained nothing contrary to the Word of God; and the beneficed clergy, while excused this severer test, were required to obey the rubric in every detail. Three hundred refused and were ejected. Many of the most influential and conscientious of the servants of the Church were driven to the position of sectarians. Till then, the only schism from the English Church had been the voluntary secession of the Brownists and a few other protomartyrs of the Congregational system, who were hated by the average Puritan almost as much as by the bishops. But now an important group of churchmen, forcibly expelled, gathered round them large congregations of admirers. The "silenced brethren," as they were called, became a living reproach to the numerous Puritan clergy who remained in the Church, a witness of the honors of martyrdom and the injustice of episcopal government. This, the first of the great ejections for conscience' sake that mark the history of the reformed English Church, began a cycle of revolutionary tests, which after weeding out in turn the more scrupulous champions of Puritanism and of Anglicanism, at the end of a hundred





years left the Vicar of Bray as the type of an English clergyman in the eighteenth century. . . .

### § 2. *The English Parliament in the Seventeenth Century*

The forms and functions of the English Parliament were derived from mediæval origins. The baron, able, when he chose, to let war loose over the land from his castle-yard, consented to spare his country so long as he was compensated with an hereditary share in the counsels of State. The gentleman, the burgess, and the yeoman, in days when the central power could do little to strengthen the hands of the tax collector against the passive resistance of a scattered population, consented to fill the royal treasury, so long as they were consulted as to the amount and reassured as to the necessity of the royal demands. Such was the original meaning of the House of Lords and of the House of Commons.

The Tudors retained the forms but altered the significance of our Parliamentary institutions. By destroying the barons and their armies, the king removed the only political power that could presume to name his ministries or dictate his policy. Having thus enslaved the Lords, he could safely make use of the Lower House. Urged and directed by the Tudor monarchs, the Commons entered into a career of legislative activity for which there had been no scope in the more conservative ages gone by. As the royal instrument of religious and social reconstruction, they gained prestige while they lost independence. At a time when the Habsburgs and Valois were jealously trenching on the ancient liberties of their Cortez and États Généraux, the English Parliament preserved its privileges and increased its functions by becoming part of the theory and practice of English absolutism.

In the days of the Plantagenet and Lancastrian dynasties, Parliament acted as opposition. But in those days it had been the peers who stirred up the Commons to criticise the king's finance, and protected them when they impeached his servants. When, therefore, the military power of the Lords had been destroyed in the Wars of the Roses, the element of opposition disappeared from both houses together. During the century that divided the battle of Bosworth from the defeat of the Armada, the Commons, while they forgot how to resist the king, learnt to be independent of the Lords. In the last years of Elizabeth, signs of a revival of opposition came not from the Upper but from the Lower House;

under the management of James, the Commons developed a new tradition of political resistance, under a new class of leaders, and created constitutional precedents more novel in reality than they were in law.

The House of Commons represented all the independent classes, not as separate and jealous "estates," but as friendly partners in a common political heritage. The farmer and agricultural laborer, since they enjoyed no social independence, exercised no political franchise. But yeomen freeholders, though they seldom if ever aspired to sit in Parliament, decided by their votes between the knights, squires, and baronets, who courted them hat in hand on market days, when the writs were travelling down from London. The yeomen were devotedly attached to the privileges of Parliament, and the principle of no taxation without representation: these watchwords were specially associated with their class pride as freeholders. As Fuller quaintly expresses it, the yeoman

"hath a great stroke in making a Knight of the shire. Good reason, for he makes a whole line in the Subsidy book, not caring how much his purse is let blood, so it be done by the advice of the physicians of State."

But the feature most distinctive of the English Parliament was the method of mutual accommodation by which the gentry and the burgesses shared between them the anomalous representative system. The life and the wealth of England were to be found chiefly in the farm and the manor house, yet the Chamber that represented her opinion contained only ninety-two members for the counties, and some four hundred members for the towns. And yet, in practice, the country gentlemen were well represented, for it was they who sat for the boroughs. In the official returns of each Parliament we only find the name of a score of "merchants," "aldermen," "recorders," and "mayors"; the remaining three hundred and fifty and odd borough members, with the exception of a few "sergeants-at-law," are entitled "baronets," "knights," "esquires," and "gentlemen." Although a certain number of the boroughs were Cornish villages in the hands of the crown or of private landowners, the proportion was not in the seventeenth century large; the bulk of the elections were genuine contests. Corruption of voters by money was not so general as it afterward became, but the power of great neighboring families was felt in the smaller towns, sometimes, probably in a very sinister manner. But in many cases the English burghers deliberately preferred to look outside their own class for a member. Except the men of London, Bristol, and Plymouth, who usually chose one of their

merchant princes, the shopkeepers considered that the privileges of Parliament were treated with more respect and their own interests with more attention, when the market towns of Buckinghamshire sent up such neighbors as the Verneys and the Hampdens, and the cities of Yorkshire spoke through a Wentworth or a Beaumont, a Cholmeley or a Fairfax. Nor did the English gentleman, like the French noble, scorn the political alliance of the "third estate"; but rather, in the pursuit of social estimation among his own equals, valued, next to representing the yeomen as county member, the scarcely inferior honor of sitting for the capital of the shire. So long as this mutual accommodation prevailed, the English chambers would not perish, like those of continental states, by the division of classes.

The pick of the country gentlemen, sent by far-distant communities to act together for a few weeks in St. Stephen's Chapel, came up uncorrupted by previous contact with Vanity Fair. Except the lawyers resident at the Inns of Court, the members knew no more of London than that the merchants were honest men, and no more of Whitehall than that the courtiers were false knaves. The character and public spirit of the Commons under James and Charles I were higher than in those subsequent periods of our history, when the Parliament men began to reside for a large part of each year on the scene of their more protracted labors, instituted a "London Season," haunted the court, and aspired to posts under the crown.

Until the Long Parliament the members had no thought of obtaining office. The edge was not taken off their patriotism by fear of losing favor at court, nor was the spirit of inquiry smothered by that indifference to scandals and to blunders which is fostered by fashionable society and by official routine. As an opposition, no assembly of men at once so shrewd and so stalwart ever met to resist the abuse of power. But this homely ignorance of the great world, while it fortified their character as men, limited their outlook as politicians. They knew so little of the details of foreign affairs, of the cost of wars, of the preparation of armaments, that while they justly condemned they were unable to correct the *haute politique* of Buckingham. Fortunately, what the time required of them was not an alternative national policy, but the protection of national liberties; for that task the English squires were fitted by their birth, their traditions, and the freshness of mind with which they came to each new Parliament from hunting deer, interviewing bailiffs, and assessing poor-rates. Hundreds of for-





gotten men, who during the Parliaments of forty years succeeded each other on the benches beside Coke, Eliot, Wentworth, Hyde, and Pym, brought to the help of England a type of character that never reappeared in our history, — directness of intention and simplicity of mind, the inheritance of modest generations of active and hearty rural life; now at last informed by Elizabethan culture; and now at last spiritualized by a Puritan religion.

English local life was the source and safeguard of English liberty, which Parliament only concentrated and expressed. During the abeyance of Parliamentary opposition, the caprice of the Tudor monarchs had been restrained by the knowledge that any one shire could assert its cause by a rebellion, and that, since no standing army existed, such a rebellion could only be suppressed if the other districts were in a temper to march to the aid of the central government. In the reign of James I the House of Commons again became the focus of local opinions, which otherwise would never have united into a national policy. The isolated communities of England, divided from each other by days of riding on steep and muddy roads, uninformed by newspapers, and perplexed by strange tales about poisoners and papists at the court, could only rely, for credible information and sober opinion, on the men whom they sent up to Parliament to inquire into these matters on the spot. The Norfolk parson, who distrusted "light scoffing wits not apt to deeper search," records in his diary that he would have been "free from all harder censure" of the Duke of Buckingham, "but that the Parliament did so oppose him." The Commons, knowing their speeches to be the sole voice and their resolutions the sole instruction of a politically minded nation, would not even compromise on the greatest of the privileges of Parliament, free speech within the walls of the House. And very free speech it was. Foreigners, accustomed to the secret intrigues of Paris and the silent obedience of Madrid, censured the boldness but envied the impunity of the Opposition, when some country gentleman, who had ridden up a few days before from his home beyond the Dorset Downs, rose in his seat to abuse the highest minister of state, and was suffered to walk back unmolested through the darkening streets to his lodgings in Holborn. It was only when the session had ended that the king dared to lay by the heels a few of the boldest speakers.

The Commons well knew what had happened to representative bodies in other lands. Foreign ambassadors lodged complaints of the abuse showered upon their masters, who were described in





the House as "overthrowing the Parliaments throughout Christendom," and reducing their subjects by arbitrary taxation to "wear only wooden shoes on their feet." "England," cried the member for Somerset, "is the last monarchy that yet retains her liberties. Let them not perish now!" The Commons therefore knew that they must look, not to the "rights of nations" or to any theories of government prevalent in that age, but to definite laws and customs peculiar to England. As historians they unearthed a period in English history from the thirteenth to the fifteenth century, when Parliament had controlled the counsels of the crown; and as lawyers they pleaded statutes of the same period, which forbade the encroachments of royal power in specific matters, such as the imposition of particular kinds of taxation. Thus an antiquarian revival, instituted by several hundred of the most hard-headed men in the country, decided the future of our island. The partisans of absolutism pleaded the equally valid Tudor precedents, and demonstrated that even in the Middle Ages the custom of the Constitution had by no means always followed the statutes, in which the Parliaments had but recorded claims never heartily allowed by the king.

### § 3. *James I and Parliament*

The theoretical basis and the legal limits of Parliamentary privilege and royal prerogative, questions wisely left to sleep by the late queen and her loving subjects, occupied the full attention of James' first Parliament which, after sitting for four sessions over a space of six years, was "broken" in 1610 to make way for the first long period of unparliamentary Stuart despotism.

The king was the first to open the high debate. The light head of the scholar was turned by the new wine of an absolutist theory of government, as alien to the mediæval English Constitution, as were the later theories of "King Pym" and "Freeborn John Lilburne." The claim of the pope as vicar of Christ to depose sovereigns had driven the champions of Protestant monarchies to invent a rival dogma. A divine right was asserted to be inherent in kings: not acquired, as the Jesuits taught, by clerical or by popular consent, but by heredity. James, as divine hereditary sovereign, made haste to state his claims to an authority that would have flattered the pride of the Castilian monarch.

> The state of monarchy (he told his first Parliament) is the supremest thing upon earth; for kings are not only God's lieutenants upon earth and sit upon God's throne, but even by God Himself they are called Gods.





Hence there was no place for constitutional discussion of a prerogative that had no limits.

> As to dispute what God may do is blasphemy, so it is sedition in subjects to dispute what a king may do in the height of his power. I will not be content that my power be disputed on.

The House of Commons, so he told its members, "derived all matters of privilege from him"; it sat, not in its own right, but of his grace.

The sudden challenge was taken up at once and by the whole House. There was no Royalist party in St. Stephen's before the Long Parliament; nor, beyond the king's own servants, did any section of any class in the country believe in the theory of divine right as applied by James. The members of his first House of Commons, with unanimity, recorded their solemn dissent from the royal utterances. When in the first session his Majesty asserted that Parliamentary privilege was not of right but of grace, they told him that he had been "misinformed," and when in the last he challenged their right to discuss the limits of his prerogative, they replied: —

> We hold it an ancient, general, and undoubted right of Parliament to debate freely all matters which properly concern the subject and his right or state; which freedom of debate being once foreclosed, the essence of the liberty of Parliament is withal dissolved.

The new claims of personal authority advanced by the Stuarts were connected with new plans for national efficiency. Their best servants, Salisbury, Bacon, and Strafford, saw, like Richelieu, that a country must be equipped with the machinery of centralized government and of productive taxation if she was to keep her place in the modern world. James and Charles I aimed at union with Scotland, a good army, and a new system of finance. In every one of these objects they were defeated, partly by their own lack of economy and administrative talent, partly by the resistance of the Commons, who opposed the strengthening of the central power as dangerous to local and Parliamentary rights. That danger would pass away as soon as the central power became representative. In the reigns of William III and Anne, the Whig ministers carried out the schemes of James I, — united, taxed, and armed Great Britain, and so enabled her in the eighteenth century to take a place in the world's politics higher than that of countries which had purchased a brief period of efficiency by a lasting sacrifice of their freedom. . . .

But it was impossible to neglect for a hundred years the need for a more productive system of taxation, a problem which, after the death of the parsimonious queen, continually returned to vex and embroil kings with their Parliaments. Elizabeth had waged the most serious of England's wars with a revenue no larger than that which James exhausted in time of peace. At slight expense to herself and her subjects, she had presided over a court, corrupt indeed, but famous to all ages for wisdom in politics and for excellence in literature; James, at a vast charge to the nation, maintained a court no less corrupt, but notorious for folly and lack of taste. When the king realized that he was spending at the rate of from £500,000 to £600,000 a year, and thereby incurring an annual deficit of from £50,000 to £150,000, he was the more willing to exert to the utmost all the prerogative rights of the crown which could bring in a revenue.

The regulation of trade with foreign countries, by impositions of duties at the ports, and by the grant or sale of trading monopolies, was a power that rested, by the custom of the Tudor queens, not with Parliament, but with the crown. It had hitherto been regarded rather as an administrative function than as a financial advantage, but the increasing volume of English trade enabled the needy James to find in it a source of large and independent revenue. The Book of Rates which he issued was an attempt to systematize the import duties on many various articles; and the commercial and financial policy involved in the tariff was determined by the Privy Council Commissioners of Trade, afterward turned by Charles I into a council of trade. In 1606 the resistance of a merchant named Bate to a new form of these duties brought the whole question of impositions before the judges, who decided that the king had acted within his legal rights. The Commons, not yet aware of all the points at issue between themselves and the crown, paid no attention to the matter in the following session of 1608; but in the two sessions of 1610 they realized that the power of the purse, the chief safeguard of their liberties, would slip from them as trade increased, unless this right to lay impositions was at once challenged. A vigorous controversy ensued. Statutes of Edward I, clearly prohibiting the levy of duties without consent of Parliament, were quoted in the House; while the crown lawyers advanced Tudor precedent, and Tudor statutes that implied the existence of the right. The question, still undecided, became merged in all the other questions at issue between Parliament and king.

Side by side with the controversy over impositions, a friendly negotiation was being conducted to put the whole financial system on a new footing. The Great Contract, which Salisbury attempted to make with Parliament, was to commute the antiquated and vexatious feudal rights of the crown for a permanent settlement of £200,000 a year, which, together with the other sources of income, should have met the annual expenditure of £600,000. Both sides were desirous of coming to such terms as would at once supply the financial needs of England, and put an end to the use of prerogative powers to raise money without Parliament; for James would on these terms forego his right to impositions.

But at the last moment religious and political misunderstanding prevented financial agreement. As early as 1604 the Commons had protested against the deprivation of their favorite clergy, the three hundred silenced Puritan pastors. As the sessions came and went, the complaints on this head were strengthened by others, touching all points of the religious question, — the imperfect enforcement of the penal laws; non-residence, so common with the inefficient type of incumbents favored by the bishops; and the swelling pride shown by those prelates to all classes of men in their ecclesiastical courts. James, always in arms to defend the episcopal power, was still more indignant to find his Parliaments seeking to interfere in his own management of the Church. The Great Contract was broken off through mutual suspicion, the dispute on impositions was left undecided, and finally, in February, 1611, the Houses were dissolved. The king determined henceforth to carry on affairs free from the vexatious cavilling of a Parliament.

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# CHAPTER II

## THE PARLIAMENTARY CRISIS OF 1629

THE constitutional conflict initiated during the reign of James I was renewed under his son Charles I. Parliament opposed the counsellors whom he chose as his advisers, resented his favor to Catholics, and refused to grant the sums he demanded without redress of grievances. After two unsuccessful attempts at securing the desired grants, Charles resorted to forced loans, to billeting soldiers on householders without their consent, and to other irritating practices. Still in need of money, he gave way to his Parliament in 1628 and signed the Petition of Right. This concession did not settle the dispute, however, for the question as to whether tonnage and poundage could be levied without specific grant led to further troubles in Parliament which were complicated by religious difficulties. The stout resistance of Parliament induced the king to order an adjournment in March, 1629, and shortly afterward a dissolution. Then began the eleven years of government without Parliament, which paved the way for the revolution.

### § 1. *Contest over the Right of Adjournment* [1]

As was expected, when the morning of March 2 came, the speaker, Sir John Finch, declared the king's pleasure that the House should be adjourned to the 10th. He then put the formal question to which, under such circumstances, a negative had never been returned. Shouts of "No!" "No!" rose on every side. Eliot rose, as if to speak to the question of adjournment. Finch did his best to check him. He had, he said, an absolute command

[1] Gardiner, *History of England*, 1603–1642, Vol. VII, pp. 67 ff. By permission of Messrs. Longmans, Green, & Company, Publishers.

from his Majesty instantly to leave the chair if any one attempted to speak.

The question of the right of adjournment thus brought to an issue was not beyond dispute. The king had again and again directed adjournments. The Lords had always considered the command as binding. The Commons had been accustomed to adjourn themselves in order to avoid the appearance of submission to the king's authority, though they had never refused to comply with his wishes.

Eliot had made up his mind that the time had arrived when the House ought to make a practical use of the right of self-adjournment which he claimed for it. As Finch moved to leave the chair, Denzil Holles and Benjamin Valentine stepped forward, seized him by the arms, and thrust him back into his seat. May and Edmondes, with the other privy councillors present, hurried to his assistance. For a moment he broke away from his captors. But his triumph was short. Crowds of members barred the way, and Holles and Valentine seized him again and pushed him back into his seat. "God's wounds!" cried Holles, "you shall sit till we please to rise." Physical force was clearly not on Finch's side, and he made no further effort to escape.

As soon as quiet had been restored Eliot's voice was heard claiming for the House the right to adjourn itself. His Majesty, he went on to say, must have been misinformed, or had been led to believe that they had "trenched too far upon the power of sovereignty." They had done nothing unjust, and as the king was just, there could be no difference between them. A short declaration of their intentions had been prepared, which he asked to be allowed to put to the question.

Eliot spoke from the highest bench at the back of the House, and he threw the paper forward in order that some one in front might hand it to the clerk to be read even if the speaker refused his consent to its reading. Shouts of "Read!" "Read!" were raised in the midst of a confused struggle. The crowd swayed backward and forward around the chair. In the midst of the excited throng, Coryton struck one of his fellow members. The speaker defended his rights. He knew no instance, he said, in which the House had continued to transact business after a command from his Majesty to adjourn. "What would any of you do," he added plaintively, "if you were in my place? Let not my desire to serve you faithfully be my ruin."

There was no room for the suggestion that the speaker was not

properly authorized to order the adjournment. He had the command, he said, from the king's own lips. Eliot rejoined that they were quite ready to adjourn in obedience to his Majesty, but the declaration must first be read. Strode in a few words acknowledged the reason for this persistency. "I desire the same," he said, "that we may not be turned off like scattered sheep, as we were at the end of the last session, and have a scorn put on us in print, but that we may leave something behind us." They wished that their voice should be heard as a rallying cry to the nation in the conflict which had begun.

One after another rose to urge upon the speaker the duty of obeying the order of the House. The order of the House, said Eliot, would be sufficient to excuse him with the king. If he refused obedience, he should be called to the bar.

At this intimation of defiance of the king's command, some members rose to leave the House. Orders were at once given to the sergeant-at-arms to shut the door, that no tales might be carried to those who were outside. The sergeant-at-arms hesitated to obey, and Sir Miles Hobart, at his own suggestion, was directed to close the doors. He swiftly turned the lock and put the key in his pocket.

As soon as order was restored, Finch's voice was heard once more. To be called to the bar, he said, was one of the greatest miseries which could befall him. Then, after a few words from others, he begged to be allowed to go to the king, as in the last session. He had done them no ill-offices then, and he would do them none now. "If I do not return, and that speedily," he ended by saying, "tear me in pieces."

Cries of "Ay!" and "No!" showed that there was a division of opinion. Eliot again threatened the speaker with the consequences of persisting in his refusal. No man, he said, had ever been blasted in that House, "but a curse at length fell upon him." He asked that his paper might be returned to him. He would read it himself, that the House and the world might know the loyalty of the affections of those who had prepared it. Before the paper was returned, Strode made one more effort to have the question regularly put. "You have protested yourself," he said to the speaker, " to be our servant, but if you do not what we command you, that protestation of yours is but a compliment. The Scripture saith, 'His servants ye are whom ye obey.' If you will not obey us, you are not our servant."

Finch's position was indeed a hard one. Elected by the Com-

h a tacit regard to a previous selection by the king,
ad hitherto served as a link between the crown and
er which he presided. In Elizabeth's days it had
a speaker to serve two masters. It was no longer
The strain of the breaking constitution fell upon
not the less the king's servant," he said, piteously,
urs. I will not say I will not put the reading of the
uestion, but I must say, I dare not."

### § 2. *Eliot's Denunciatory Speech*

final refusal Eliot raised his voice. He told his
enough now, how religion had been attacked; how
was the pioneer to popery; how there was a power
which checked the magistrates in the execution of
se who exercised this power had been the authors
ptions in this place, whose guilt and fear of punish-
t the House upon the rocks. Amongst these evil
ere some prelates of the Church, such as in all ages
ady for innovation and disturbance, though at this
an any. Them he denounced as enemies to his
d behind them stood another figure more base and
The lord treasurer (Weston) himself was the prime

properly authorized to order the adjournment. He had the command, he said, from the king's own lips. Eliot rejoined that they were quite ready to adjourn in obedience to his Majesty, but the declaration must first be read. Strode in a few words acknowledged the reason for this persistency. "I desire the same," he said, "that we may not be turned off like scattered sheep, as we were at the end of the last session, and have a scorn put on us in print, but that we may leave something behind us." They wished that their voice should be heard as a rallying cry to the nation in the conflict which had begun.

One after another rose to urge upon the speaker the duty of obeying the order of the House. The order of the House, said Eliot, would be sufficient to excuse him with the king. If he refused obedience, he should be called to the bar.

At this intimation of defiance of the king's command, some members rose to leave the House. Orders were at once given to the sergeant-at-arms to shut the door, that no tales might be carried to those who were outside. The sergeant-at-arms hesitated to obey, and Sir Miles Hobart, at his own suggestion, was directed to close the doors. He swiftly turned the lock and put the key in his pocket.

As soon as order was restored, Finch's voice was heard once more. To be called to the bar, he said, was one of the greatest miseries which could befall him. Then, after a few words from others, he begged to be allowed to go to the king, as in the last session. He had done them no ill-offices then, and he would do them none now. "If I do not return, and that speedily," he ended by saying, "tear me in pieces."

Cries of "Ay!" and "No!" showed that there was a division of opinion. Eliot again threatened the speaker with the consequences of persisting in his refusal. No man, he said, had ever been blasted in that House, "but a curse at length fell upon him." He asked that his paper might be returned to him. He would read it himself, that the House and the world might know the loyalty of the affections of those who had prepared it. Before the paper was returned, Strode made one more effort to have the question regularly put. "You have protested yourself," he said to the speaker, " to be our servant, but if you do not what we command you, that protestation of yours is but a compliment. The Scripture saith, 'His servants ye are whom ye obey.' If you will not obey us, you are not our servant."

Finch's position was indeed a hard one. Elected by the Com-





indeed, struck the blow home. "Whoever," he said, "laid tonnage and poundage on the people without the gift of Parliament is an enemy to the commonwealth, and that this great person has done this, there are not light suspicions only upon him, but apparent proofs." But Eliot was not so entirely thrown off his balance as to assume guilt which had not been proved. He had no intention, he declared, of asking the House to take his assertions as evidence. He hoped to be allowed to produce his proofs when they met again.

### § 3. *The Passage of the Resolution*

The discussion threatened to become endless for want of definite aim. Selden brought it back to the original issue by telling the speaker once more that he was bound to put the question. If he refused, they had in him a master instead of a servant. He would virtually abdicate his office, and they ought then to proceed to the choice of another speaker. For the present Selden contented himself with moving that Eliot should take the chair and put the resolutions to the House.

An unexpected obstacle arose. Eliot having, as it would seem, despaired of obtaining a formal vote upon his resolutions, had thrown the paper in the fire. "I think," said Holles, reasonably enough, "that gentleman hath done very ill to burn that paper." Eliot gracefully submitted to the correction. "I give that gentleman great thanks for reproving me for the burning of that paper, and of all obligations that have passed between us I hold this for the greatest." With the exception of a formal motion made shortly afterward, these words of courtesy were the last utterance of the high-souled man within the walls of the House of Commons.

Whatever was to be done must be done speedily. As Holles rose, a knocking was heard at the door. The king had sent for the sergeant to bring away the mace. The House would not yet part with the symbol of authority; but after some delay, the sergeant was allowed to go. Hobart let him out, and locked the door after him again.

As soon as order was restored, there was a fresh discussion on the propriety of naming the lord treasurer. Sir Peter Heyman turned once more upon Finch: "I am sorry," he said, "that you must be made an instrument to cut up the liberties of the subject by the roots. I am sorry you are a Kentish man, and that you are of that name which hath borne some good reputation in our

country. The speaker of the House of Commons is our mouth, and if our mouth will be sullen and will not speak when we would have it, it should be bitten by the teeth, and ought to be made an example; and, for my part, I think it not fit you should escape without some mark of punishment to be set upon you by the House."

It was easier to speak of punishment than to inflict it. Maxwell, the usher of the Black Rod, was now knocking at the door with a message from the king. The moments were fast flying, and there was no time for longer deliberation. Charles had sent for his guard to force a way into the House. Not a minute was to be lost in idle recrimination. Holles threw himself into the breach. "Since that paper is burnt," he said, "I conceive I cannot do his Majesty nor my country better service than to deliver to this House what was contained in it, which, as I remember, was thus much in effect: —

"Whosoever shall bring in innovation in religion, or by favor seek to extend or introduce popery or Arminianism, or other opinions disagreeing from the true and orthodox Church, shall be reputed a capital enemy to this kingdom and the commonwealth.

"Whosoever shall counsel or advise the taking and levying of the subsidies of tonnage and poundage, not being granted by Parliament, or shall be an actor or an instrument therein, shall be likewise reputed an innovator in the government, and a capital enemy to this kingdom and commonwealth.

"If any merchant or other person whatsoever shall voluntarily yield or pay the said subsidies of tonnage and poundage, not being granted by Parliament, he shall likewise be reputed a betrayer of the liberty of England, and an enemy to the same."

It was hopeless to apply again to speaker or clerk. Holles put the question himself. Hearty shouts of "Ay!" "Ay!" adopted the defiance which he flung in the face of the king. The House then voted its own adjournment. The door was thrown open at last, and the members poured forth to convey to the outer world the tidings of their high resolve. Eleven years were to pass away before the representatives of the country were permitted to cross that threshold again. . . .

Immediately after the adjournment a proclamation for the dissolution of Parliament was drawn up and signed by the king. Charles threw the whole blame upon the insolence of those who had resisted his command to adjourn. Yet it was not without hesitation that the decisive step was taken. Coventry was sup-

ported by a considerable following in the council in asking that a milder course should be adopted. Weston, whose impeachment had been called for by Eliot, argued strongly on the other side. For two days the contending parties strove with one another, and it was only on the 4th that the Proclamation was made public. The day before, Eliot and eight other members of the Commons had been summoned to appear before the board. Seven of them presented themselves before the council, and were committed either to the Tower or to other prisons. The other two were subsequently captured, and shared the fate of their friends.



# CHAPTER III

## ARCHBISHOP LAUD AND THE RELIGIOUS CONTROVERSY

DURING the period of personal government, Charles I did many things which irritated the people of England. He fined men who, though holding by military tenure lands worth £40 a year, had not been knighted, thus reviving a practice which men believed to be obsolete. He levied ship money to build up his navy, and to replenish his treasury resorted to many other schemes which stirred up a bitter opposition from those on whom the burdens fell. To these sources of discontent another was added in the appointment of Laud as Archbishop of Canterbury. In his own words, Laud "labored nothing more than that the external public worship of God, too much slighted in most parts of the kingdom — might be preserved, and that with as much decency and uniformity as might be." Here were an ideal and a determination clearly athwart the temper of the growing Puritan party. The student, therefore, seeking the forces at work in the constitutional struggle must closely examine the policy and actions of Archbishop Laud.

### § 1. *The Character of Archbishop Laud*[1]

Soberness of judgment in matters of doctrine, combined with an undue reverence for external forms, an entire want of imaginative sympathy, and a quick and irritable temper, made Laud one of the worst rulers who could at this crisis have been imposed upon the English Church. For it was a time when, in the midst of diverging tendencies of thought, many things were certain to be said and done which would appear extravagant to his mind; and

[1] Gardiner, *History of England, 1603–1642*, Vol. VII, pp. 301 ff. By permission of Longmans, Green, & Company, Publishers.

when the bond of unity which he sought to preserve was to be found rather in identity of moral aim than in exact conformity with any special standard. The remedy for the diseases of the time, in short, was to be sought in liberty, and of the value of liberty Laud was as ignorant as the narrowest Puritan or the most bigoted Roman Catholic.

Those who are most prone to misunderstand others are themselves most liable to be misunderstood. The foreign ecclesiastic, if such he was, who offered Laud a cardinal's hat, did not stand alone in his interpretation of the tendencies of the new archbishop. One Ludowick Bowyer, a young man of good family, who may have been mad, and was certainly a thief and a swindler, went about spreading rumors that Laud had been detected in raising a revenue for the pope, and had been sent to the Tower as a traitor. The Star Chamber imprisoned him for life, fined him £3000, ordered him to be set three times in the pillory, to lose his ears, and to be branded on the forehead with the letters L and R, as a liar and a rogue. "His censure is upon record," wrote Laud coolly in his diary, "and God forgive him. . . ."

The sharpness and irritability with which Laud was commonly charged were not inconsistent with a readiness to use persuasion rather than force as long as mildness promised a more successful issue. When once he discovered that an opponent was not to be gained over, he lost all patience with him. He had no sense of humor to qualify the harshness of his judgment. Small offences assumed in his eyes the character of great crimes. If in the Star Chamber, any voice was raised for a penalty out of all proportion to the magnitude of the fault, that voice was sure to be the archbishop's.

### 2. *Laud and Ecclesiastical Discipline*

Almost immediately after his promotion Laud received a letter from the king which was doubtless written at his own instigation. In this letter he was directed to see that the bishops observed the canon which restricted their ordinations to persons who, unless they held certain exceptional positions, were able to show that they were about to undertake the cure of souls. In this way the door of the ministry would be barred against two classes of men which were regarded by the archbishop with an evil eye, and at which he had already struck in the king's instructions issued four years before. No man would now be able to take orders with the intention of passing his life as a lecturer, in the hope that he would





thus escape the obligation of using the whole of the services in the Prayer Book. Nor would any man be able to take orders with the hope of obtaining a chaplaincy in a private family, where he would be bound to no restrictions except those which his patron was pleased to lay upon him. Only peers and other persons of high rank were now to be permitted to keep chaplains at all.

Undoubtedly the system thus attacked was an evil system. The separation between the lecturer who preached and the conforming minister who read the service was admirably contrived to raise feelings of partisanship in a congregation and a division amongst the clergy themselves. The lecturer who sat in the vestry till the prayers were over, and then mounted the pulpit as a being infinitely superior to the mere reader of prayers who had preceded him, was not very likely to promote the peace of the Church. The system of chaplaincies was fraught with evils of another kind. The chaplain of a wealthy patron might indeed be admitted as the honored friend of the house, the counsellor in spiritual difficulties, the guide and companion of the younger members of the family; but in too many instances the clergyman who accepted such a position would sink into the dependent hanger-on of a rich master, expected to flatter his virtues and to be very lenient to his faults, to do his errands and to be the butt of his jests. Promoters of ecclesiastical discipline like Laud, and dramatic writers who cared nothing for ecclesiastical discipline at all, were of one mind in condemning a system which brought the ministers of the gospel into a position in which they might easily be treated with less consideration than a groom. . . .

Laud's intense concentration upon the immediate present hindered him from perceiving the ultimate consequence of his acts. His strong confidence in the power of external discipline to subdue the most reluctant minds encouraged him to seize the happy moment when the king, and, as he firmly believed, the law, was on his side. Deeper questions about the suitability of that law to human nature in general or to English nature in particular he passed over as irrelevant. He did not look to the king to carry out some ideal which the law knew nothing of. He had "ever been of opinion that the king and his people" were "so joined together in one civil and politic body, as that it" was "not possible for any man to be true to the king that shall be found treacherous to the State established by law, and work to the subversion of the people." In his eyes, no doubt the king possessed legal powers which the mediæval churchman would have regarded as tyrannical





usurpation. As the king administered justice by his judges, and announced his political resolutions by his privy council, so he exercised his ecclesiastical authority through his bishops or his Court of High Commission. Though the bishops might give him advice which he would not find elsewhere, and though they might owe their power to act to a special divine appointment, yet all their jurisdiction came from the sovereign, as clearly as the jurisdiction of the King's Bench and the Exchequer came from him. Hence Laud cared as little for the spiritual independence of bishops as he cared for the spiritual independence of congregations. His counterpart in our own times is to be found, not in the ecclesiastics who magnify the authority of the Church, but in the lawyers who, substituting the supremacy of the House of Commons for the supremacy of the crown, strive in vain to reply to all spiritual and moral questionings by the simple recommendation to obey the law.

### § 3. *Laud and Ecclesiastical Architecture*

Laud understood far better how to deal with buildings than with men. The repairs at St. Paul's were being carried briskly on under the superintendence of Inigo Jones. During the remainder of Laud's time of power from £9000 to £15,000 a year were devoted to the work, arising partly from contributions more or less of a voluntary nature, partly from fines imposed by the High Commission which were set aside for the purpose. Much to the king's annoyance, rumors were spread that the greater part of this money was not applied to the building at all, but went to swell the failing revenues of the crown. The restoration of the external fabric drew attention to an abuse of long standing. The nave and aisles had, from times beyond the memory of men then living, been used as places of public resort. Porters carried their burdens across the church as in the open street. Paul's Walk, as the long central aisle was called, was the rendezvous of the men of business who had a bargain to drive, and of the loungers whose highest wish was to while away an idle hour in agreeable society. To the men of the reigns of James I and Charles I it was all that the coffee-houses became to the men of the reign of Charles II and James II, and all that the clubhouses are to the men of the reign of Victoria. There were to be heard the latest rumors of the day. There men told how some fresh victory had been achieved by Gustavus, or whispered how Laud had sold himself to the pope, and how Portland had sold himself to the king of Spain. There,

too, was to be heard the latest scandal affecting the credit of some merchant of repute or the good name of some lady of title. When the gay world had moved away, children took the place of their elders, making the old arches ring with their merry laughter. The clergy within the choir complained that their voices were drowned by the uproar, and that neither prayers nor sermon reached the ears of the congregation.

With this misuse of the cathedral church of the capital, Charles, not a moment too soon, resolved to interfere. He issued orders that no one should walk in the nave in time of service, that burdens should not be carried in the church at all, and that the children must look elsewhere for a playground. In order to meet the wants of the loungers excluded from their accustomed resort, he devoted £500 a year to the building of a portico at the west end for their use. The straight lines of the Grecian architecture of the portico contrasted strangely with the Gothic traceries above. It reminds us, as we see it in the old prints, of the deadness of feeling with which even a great artist, such as Inigo Jones, regarded the marvels of mediæval architecture; it may also bring before us the memory of one instance in which Charles thought it necessary to conciliate opposition.

In his care for St. Paul's, Laud was not likely to neglect his own chapel at Lambeth. Abbott had left it in much disorder. Fragments of painted glass were mingled confusedly with white spaces in the windows. The painted glass was now restored to the condition in which it had originally been when placed there by Archbishop Morton. It contained scenes from the Old and New Testament; a representation of the Saviour hanging upon the cross — a crucifix as the Puritans termed it — occupying the east end. When the windows were completed, the communion table was moved to the eastern wall. Toward this the archbishop and his chaplains bowed whenever they entered. There does not seem to have been any thing gorgeous or pompous in the ceremonial observed, which would have distinguished it from that which is to be seen in almost every parish church in England at the present day. . . .

### § 4. *The Puritan Sabbath*

If Laud was intolerant whenever Church order and discipline were concerned, the Puritans whom he combated were no less intolerant when they believed that the interests of morality were





concerned. No greater contrast can be drawn than between the Puritan Sabbath and the traditional Sunday of the Middle Ages. The Puritan, however, was not content with passing the day in meditation or self-examination, unless he could compel others to abandon not merely riotous and disorderly amusements, but even those forms of recreation to which they and their fathers had been accustomed from time immemorial. The precepts of the Fourth Commandment were, according to his interpretation, of perpetual obligation. The Christian Lord's Day was but the Jewish Sabbath, and it was the duty of Christian magistrates to enforce its strict observance. The opponents of Puritanism took a precisely opposite view. The institution of the Christian Sunday, they argued, had been handed down simply by the oldest Church tradition, and it was therefore for the Church to say in what manner it should be observed. Nor could the Church, as a loving mother, forget that the mass of her children were hardly worked during six days of the week, and that it would be cruelty to deprive them of that relaxation which they had hitherto enjoyed.

The question assumed a practical shape through a dispute which had recently arisen in Somerset. It had long been a custom in that and in the neighboring counties to hold feasts under the name of wakes on the day of the saint to whom the parish church was dedicated. In the sixteenth century these wakes were, for the most part, transferred to the preceding or the following Sunday. Such convivial gatherings always afforded a temptation to coarse and unrefined natures, and the wakes not infrequently ended in drunkenness and the indulgence of the lower passions. In the days of Queen Elizabeth the judges of assize and the justices of the peace had forbidden them as unlawful meetings for tippling. In 1615 two manslaughters having been committed at one of these festivals, a more stringent order was issued, in which "the continual profanation of God's Sabbath" was for the first time mentioned. In 1627 the judges directed that this order should be yearly published by every minister in his parish church, and a return made of those who had rendered obedience to this command. In 1632 these directions were re-issued by Chief Justice Richardson.

Others besides the Puritans of the county gave their support to Richardson. Lord Poulett, who had thrown all his influence on the side of the crown in the days of Buckingham, headed a petition against the wakes. On the other hand, Sir Robert Phelips, who had been drawing nearer to the court ever since the disturbance at

the end of the last session, complained to Laud, and Laud complained to the king, of the conduct of the judges.

Laud was especially indignant at the presumption of the judges in directing the clergy to read their orders in church, which he regarded as an interference with the jurisdiction of the bishop. The king approved of his objection, and sent a message to Richardson requiring him to revoke the order at the next Lent assizes. Richardson took no notice of the message. Before the summer assizes Charles repeated his directions in person. The judge did not any longer venture to refuse obedience, but he took care to show that he was acting under compulsion.

Charles lost patience. Richardson was summoned before a committee of the council. Laud rated him soundly for his disobedience. He left the room with tears in his eyes. "I have been almost choked," he said, "with a pair of lawn sleeves." He was forbidden ever to ride the western circuit again.

Laud had already written to Pierce, the new bishop of the diocese, requesting him to ask the opinion of some ministers in the county. The bishop's report was doubtless too highly colored. The seventy-two ministers to whom he directed his questions were probably not selected at random, and they must have known what sort of answer would be acceptable to their ecclesiastical superiors; still it is difficult to set aside their evidence altogether. Friendships, they said, were cemented, and old quarrels made up at these gatherings. The churches were better frequented than on any other Sunday in the year. "I also find," added Pierce, "that the people generally would by no means have these feasts taken away; for when the constables of some parishes came from the assizes about two years ago, and told their neighbors that the judges would put down these feasts, they answered that it was very hard if they could not entertain their kindred and friends once a year to praise God for his blessings, and to pray for the king's Majesty, under whose happy government they enjoyed peace and quietness, and they said they would endure the judge's penalties rather than they would break off their feast days. It is found also true by experience that many suits in law have been taken up at these feasts by mediation of friends, which could not have been so soon ended in Westminster Hall."

The bishop then pointed out what he considered to be the real motive for the objection taken. The precise sort, he said, disliked the feasts because they were held upon Sundays, "which they never call but Sabbath days, upon which they would have no





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Laud was especially indignant at the presumption of the judges in directing the clergy to read their orders in church, which he regarded as an interference with the jurisdiction of the bishop. The king approved of his objection, and sent a message to Richardson requiring him to revoke the order at the next Lent assizes. Richardson took no notice of the message. Before the summer assizes Charles repeated his directions in person. The judge did not any longer venture to refuse obedience, but he took care to show that he was acting under compulsion.

Charles lost patience. Richardson was summoned before a committee of the council. Laud rated him soundly for his disobedience. He left the room with tears in his eyes. "I have been almost choked," he said, "with a pair of lawn sleeves." He was forbidden ever to ride the western circuit again.

Laud had already written to Pierce, the new bishop of the diocese, requesting him to ask the opinion of some ministers in the county. The bishop's report was doubtless too highly colored. The seventy-two ministers to whom he directed his questions were probably not selected at random, and they must have known what sort of answer would be acceptable to their ecclesiastical superiors; still it is difficult to set aside their evidence altogether. Friendships, they said, were cemented, and old quarrels made up at these gatherings. The churches were better frequented than on any other Sunday in the year. "I also find," added Pierce, "that the people generally would by no means have these feasts taken away; for when the constables of some parishes came from the assizes about two years ago, and told their neighbors that the judges would put down these feasts, they answered that it was very hard if they could not entertain their kindred and friends once a year to praise God for his blessings, and to pray for the king's Majesty, under whose happy government they enjoyed peace and quietness, and they said they would endure the judge's penalties rather than they would break off their feast days. It is found also true by experience that many suits in law have been taken up at these feasts by mediation of friends, which could not have been so soon ended in Westminster Hall."

The bishop then pointed out what he considered to be the real motive for the objection taken. The precise sort, he said, disliked the feasts because they were held upon Sundays, "which they never call but Sabbath days, upon which they would have no

concerned. No greater contrast can be drawn than between the Puritan Sabbath and the traditional Sunday of the Middle Ages. The Puritan, however, was not content with passing the day in meditation or self-examination, unless he could compel others to abandon not merely riotous and disorderly amusements, but even those forms of recreation to which they and their fathers had been accustomed from time immemorial. The precepts of the Fourth Commandment were, according to his interpretation, of perpetual obligation. The Christian Lord's Day was but the Jewish Sabbath, and it was the duty of Christian magistrates to enforce its strict observance. The opponents of Puritanism took a precisely opposite view. The institution of the Christian Sunday, they argued, had been handed down simply by the oldest Church tradition, and it was therefore for the Church to say in what manner it should be observed. Nor could the Church, as a loving mother, forget that the mass of her children were hardly worked during six days of the week, and that it would be cruelty to deprive them of that relaxation which they had hitherto enjoyed.

The question assumed a practical shape through a dispute which had recently arisen in Somerset. It had long been a custom in that and in the neighboring counties to hold feasts under the name of wakes on the day of the saint to whom the parish church was dedicated. In the sixteenth century these wakes were, for the most part, transferred to the preceding or the following Sunday. Such convivial gatherings always afforded a temptation to coarse and unrefined natures, and the wakes not infrequently ended in drunkenness and the indulgence of the lower passions. In the days of Queen Elizabeth the judges of assize and the justices of the peace had forbidden them as unlawful meetings for tippling. In 1615 two manslaughters having been committed at one of these festivals, a more stringent order was issued, in which "the continual profanation of God's Sabbath" was for the first time mentioned. In 1627 the judges directed that this order should be yearly published by every minister in his parish church, and a return made of those who had rendered obedience to this command. In 1632 these directions were re-issued by Chief Justice Richardson.

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manner of recreation." Some of the ministers whom he had consulted were of the contrary opinion. They thought that "if the people should not have their honest and lawful recreations upon Sundays after evening prayer, they would go either into tipplinghouses, and there upon their ale-benches talk of matters of the Church or State, or else into conventicles."

Without waiting for Pierce's reply, Charles ordered the republication of his father's Declaration of Sports. The late king, he said, had "prudently considered that, if these times were taken from them, the meaner sort which labor hard all the week should have no recreations at all to refresh their spirits." Once more it was announced from the throne that as soon as the Sunday afternoon service came to an end, the king's "good people" were not to "be disturbed, letted, or discouraged from any lawful recreation, such as dancing, either men or women, archery for men, leaping, vaulting, or any other such harmless recreation, nor from having of May-games, Whit-ales and Morris dances, and the setting up of maypoles, and other sports therewith used, so as the same be had in due and convenient time without impediment or neglect of divine service."

As yet the only notion of liberty entertained by either of the church parties was the removal of restrictions which the opposite party considered it all-important to impose. The Puritan objected to the compulsory observance of the Laudian ceremonies. Laud objected to the compulsory observance of the Puritan Sabbath.

It was necessary that the king's intentions should be as widely known as possible. As in the last reign, the readiest way seemed to be to order the clergy to read the Declaration from the pulpit. Once more the old difficulty occurred. There were many amongst the clergy to whom the Declaration was mere profanity, and some of these had the courage to act upon their opinions. One London clergyman read the Declaration first, and the ten commandments afterwards. "Dearly beloved," he then said, "ye have heard the commandments of God and man, obey which you please." Others preserved an obstinate silence. Many were suspended or deprived for their refusal. It is true that Richardson and the Somerset justices had not scrupled to require the clergy to read an announcement of an opposite character. Laud was nothing loath to follow their example. In his eyes a minister was bound, like a constable or a justice of the peace, to communicate the intentions of the government to the people, whenever he was ordered to do so by

the proper ecclesiastical authorities. If the Church gained in organization in Laud's hands, the gain was compensated by the loss of much of its spiritual influence.

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# CHAPTER IV

## LONG PARLIAMENT AND THE PEACEFUL REVOLUTION

AFTER eleven years of personal government, Charles I was forced by peculiar circumstances to call a Parliament and yield reluctantly to its demands for redress of grievances. In his attempt to force on the Scotch a religious service very much like that in use in England, he had stirred up a rebellion and in "The Second Bishops' War," as it is called, was defeated by the Scotch. In the preliminary treaty which closed the struggle Charles stipulated to pay £840 a day until the permanent peace was signed. Unable to raise this amount he had recourse again to Parliament, and the latter, finding the king in a dilemma, took advantage of the opportunity to obtain a redress of grievances. The original issues of the Puritan Revolution are to be studied in the work of this Long Parliament during the early period of its existence. A brief summary of this work is to be found in the preface to Mr. Gardiner's admirable collection of documents, from which the account given here is taken.

### § 1. *The Triennial Act and Impeachment of Strafford*[1]

For the first time in the reign of Charles I, a Parliament met with an armed force behind it. Though the Scottish army, which continued to occupy the northern counties till August, 1641, was not directly in its service, it depended for its support upon the money voted by the English Parliament, and would consequently have placed itself at the disposition of Parliament if Charles had threatened a dissolution. Charles was therefore no longer in a position to refuse his assent to bills of which he disapproved, and the series

[1] Gardiner, *Constitutional Documents of the Puritan Revolution*, pp. xxxi ff. By permission of the Delegates of the Clarendon Press, Oxford.





of constitutional acts passed during the first ten months of the existence of the Long Parliament (November, 1640–August, 1641), bear witness to the direction taken by it in constitutional matters. The Triennial Act enacting that Parliament was to meet at least once in three years, and appointing a machinery by which it might be brought together when that period had elapsed, if the crown neglected to summon it, struck at Charles's late system of governing without summoning Parliament until it suited him to do so, but it did nothing to secure the attention of the king to the wishes of the houses. Whilst measures were being prepared to give effect to the further changes necessary to diminish the king's authority, the attention of the houses and of the country was fully occupied by the impeachment, which was ultimately turned into the attainder of the Earl of Strafford.

No great constitutional change can take place without giving dire offence to those at whose expense the change is made, and Parliament had therefore from the very beginning of its existence to take into account the extreme probability that Charles, if he should ever regain power, would attempt to set at naught all that it might do. Against this they attempted to provide by striking at his ministers, especially at Strafford, whom they knew to have been, for some time, his chief adviser, and whom they regarded as the main supporter of his arbitrary government in the past, and also as the man who was likely from his ability and strength of will to be most dangerous to them in the future, in the event of an attempted reaction. They imagined that if he were condemned and executed, no other minister would be found daring enough to carry out the orders of a king who was bent upon reducing Parliament to subjection. They therefore impeached him as a traitor, on the ground that his many arbitrary acts furnished evidence of a settled purpose to place the king above the law, and that such a purpose was tantamount to treason; because, whilst it was apparently directed to strengthening the king, it in reality weakened him by depriving him of the hearts of his subjects.

Whether it was justifiable or not to put Strafford to death for actions which had never before been held to be treasonable, it is certain that the Commons, in imagining that Strafford's death would end their troubles, underestimated the gravity of the situation. They imagined that the king, in breaking through what they called the fundamental laws, had been led astray by wicked counsel, and that they might therefore fairly expect that when his counsellors were punished or removed, he would readily acquiesce





in changes which would leave him all the legal power necessary for the well-being of the State.

Such a view of the case was, however, far from being accurate. As a matter of fact, the constitutional arrangements bequeathed by the Tudors to the Stuarts had broken down, and Charles could argue that he had but perpetuated the leadership of the Tudors in the only way which the ambition of the House of Commons left open to him, and that therefore every attempt now made to subject him to Parliament was a violation of those constitutional rights which he ought to exercise for the good of the nation. It is true that an ideally great man might have been enlightened by the failure of his projects; but Charles was very far from being ideally great, and it was therefore certain that he would regard the designs of the Commons as ruinous to the well-being of the kingdom as well as to his own authority. The circumstances of Strafford's trial increased his irritation, and he had recourse to intrigues with the English army which still remained on foot in Yorkshire, hoping to engage it in his cause against the pretensions of Parliament. Against these intrigues a general protestation was directed. It was drawn up by Pym, and was taken by every member of both houses as a token of their determination to resist any forcible interference with their proceedings. It was rapidly followed by the king's assent, given under stress of mob violence, to the act for Strafford's attainder.

### § 2. *The Real Position of King and Parliament*

On the day on which the king's assent to Strafford's death was given, he also consented to an act against the dissolution of the Long Parliament without its own consent. It was the first act which indicated the new issues which had been opened by the manifest reluctance of Charles to accept the diminution of his power on which Parliament insisted. Taking into account the largeness of the changes proposed, together with the character of the king from whom the power was to be abstracted, it is hardly possible to avoid the conclusion that nothing short of a change of kings would meet the difficulties of the situation. Only a king who had never known what it was to exercise the old powers would feel himself at his ease under the new restrictions.

However reasonable such a conclusion may be, it was not only impossible, but undesirable, that it should be acted on at once. Great as was both physically and morally the injury inflicted on

the country by the attempt of Parliament to continue working with Charles, the nation had more to gain from the effort to preserve the continuity of its traditions than it had to lose from the immediate evil results of its mistake. If that generation of Englishmen was slow to realize the truth in this matter, and suffered great calamities in consequence, its very tenacity in holding firm to the impossible solution of a compromise with Charles I gave better results even to itself than would have ensued if it had been quick to discern the truth. A nation which easily casts itself loose from the traditions of the past loses steadiness of purpose, and, ultimately wearied by excitement, falls into the arms of despotism.

In spite, therefore, of the appearance of chaos in the history of the years 1640–1649, the forces which directed events are easily to be traced. During the first months of the Long Parliament there is the resolution — whilst retaining the kingship — to transfer the general direction of government from the king to Parliament, and more especially to the House of Commons, a resolution which at first seems capable of being carried out by the abolition of the institutions which had given an exceptional position to the Tudor and Stuart sovereigns. Later on there is the gradual awakening of a part of the nation to the truth that it is impossible to carry out the new system in combination with Charles, and this leads to the putting forth by Parliament of a claim to sovereignty, really incompatible with kingship. Even those, however, who are most ready to break with the past, strive hard to maintain political continuity by a succession of proposed compromises, not one of which is accepted by both parties.

### § 3. *Additional Constitutional Gains by Parliament*

The Tonnage and Poundage Act, which became law on June 22, bears the impress of the first of these movements. On the one hand, whilst it asserts the illegality of the levy of customs-duties without a Parliamentary grant, it gives to Charles not merely the Tonnage and Poundage given to his father, but also "such other sums of money as have been imposed upon any merchandise either outward or inward by pretext of any letters patent, commission under the Great Seal of England or Privy Seal, since the first year of his late Majesty King James, of blessed memory, and which were continued and paid at the beginning of this present Parliament." On the other hand, it shows how greatly Charles





was distrusted by limiting the grant to less than two months, from May 25 to July 15.

The circumstances which caused this distrust are revealed in the ten propositions for a political and religious settlement. The English army was still under arms in Yorkshire, and though it was about to be disbanded, the king proposed to visit Scotland with the intention, as was then suspected, and is now known, of stirring up the Scots to assist him in England. At such a time it may well have seemed unwise to make the king financially independent, and subsequent events increasing the feeling, the Tonnage and Poundage Act was renewed for short periods only, till the outbreak of the Civil War put an end to any wish to supply the king.

In spite of the king's hope of bringing about a reaction with Scottish aid, he did not feel himself strong enough to refuse his assent to the bills prepared for cutting off the powers acquired by the Tudors, and on July 5 he gave his consent to the act for the abolition of the Star Chamber and to the act for the abolition of the High Commission. The work of branding with illegality the extraordinary financial means to which he had himself resorted was completed by the act declaring the illegality of ship-money, the act for the limitation of forests, and the act prohibiting the exaction of knighthood fines.

Thus far Parliament had been practically unanimous. The constitution which had been virtually modified in 1629 to the profit of monarchy was legally modified in 1641 to the disadvantage of monarchy. If there had been nothing more than constitutional questions at issue, it is highly probable that if the king had continued to intrigue with the object of redressing forcibly the balance in his favor, Parliament, backed by the active part of the nation, would have at last been almost unanimous in demanding a change of sovereigns. It is however seldom, if it is ever the case, that political movements are determined on such simple lines. Human action is influenced by many motives, and as the political current shifts and varies, ideas which have at one time hardly obtained recognition rise to the surface and become all-important in the direction of events.

### § 4. *Propositions for Religious Reforms*

At the end of August, 1641, the political changes which had been unanimously adopted, and which, with the exception of the clauses





in the Triennial Act for the automatic assembling of Parliament, were permanently accepted in 1660 by the government of the restoration, had been accomplished. Room was thereby made for the consideration of another class of changes on which considerable difference of opinion existed. Something must be done to settle the Church as well as the State, and excepting so far as the abolition of the High Commission was concerned, there was no such agreement about ecclesiastical as there had been about political reforms. It was indeed generally desired that the Church, like the State, should be regulated by Parliamentary law rather than by the royal authority; and that an end must be put to the alterations in the conduct of worship, which in Laud's eyes were but the restoration of legal order, whilst in the eyes of others they were unauthorized innovations. Further than this, agreement was not to be had. There were those who wished Episcopacy and the Common Prayer Book to be abolished, and there were others who wished them to be retained with some restraint of the authority of the bishops, and with some more or less slight alteration of the form of prayer.

These two tendencies had already made themselves felt: the first in the Root and Branch Petition, concerning manifold evils in the Church, presented to the House of Commons on December 11, 1640, and in the so-called Root and Branch Bill for transferring Episcopal jurisdiction to Parliamentary Commissioners, which reached the committee stage in the House of Commons; the second in the bill on Church Reform, which was read twice in the House of Lords. Neither of these obtained the final sanction even of the House in which it had been introduced, and when in the beginning of September, when the king was away in Scotland, the houses prepared for a short recess, the resolutions of the Commons on Ecclesiastical Innovations and the publication of an order of the Lords on the services of the Church showed that there were at least divergent tendencies in the two houses as far as church matters were concerned.

The event which precipitated the division of parties was the Ulster Rebellion. The first indication that the majority of the Commons felt that, with a war in Ireland in prospect, it was necessary that harmony should exist between the crown and Parliament is to be found in the Instructions to the Commons' Committee in Scotland, sent up to the Lords on November 8. The demand made in these Instructions was for the appointment of councillors and ministers approved by Parliament. To grant such a wish would

practically annihilate the independent action of the crown, and the division of parties on ecclesiastical affairs now gave to the king a majority of the Lords and a large minority of the Commons upon whom he could rely. All those, in short, who wished to see considerable ecclesiastical changes made in the Puritan direction supported the authority of the House of Commons, whilst those who wished the changes to be few or none supported the authority of the king. When Charles returned to London on November 25 his speech to the Recorder showed that he was aware where his real strength lay, and his policy was completely in accord with his conscience. On December 1 a deputation of the Commons presented to him the Grand Remonstrance, which had been carried by a small majority before his return. After setting forth at length the details of the late misgovernment, the House asked for the employment of ministers in whom Parliament might confide, and for the reference of church reform to a synod of divines whose conclusions might be confirmed by Parliament. As there was to be no toleration of Non-conformity, the plan of the framers of the Grand Remonstrance was to substitute the general enforcement of their own form of church government and worship for that which had recently been enforced by the authority of the king and the bishops. On December 10 Charles answered indirectly by a Proclamation on Religion, and directly on December 23 by his answer to the petition accompanying the Grand Remonstrance. The general outcome of the discussion was that the House of Commons wanted their will to prevail in all that was to be done, whilst the king was ready to hear what they had to say and to assent to just as much as he pleased. If only an appeal to force could be averted, the majority of the Commons had the game in their own hands. They had but to refuse to continue the grant of Tonnage and Poundage to reduce Charles to bankruptcy. It was the consciousness that this was the case which filled the air with rumors of Royalist plots during the last fortnight of December, and which brought a mob of apprentices to support the Commons in Palace Yard, and a crowd of officers who had served in the now disbanded army of the north to support the king at Whitehall.

Such a tension of feeling could not last long, and the king was the first to move. On January 3, 1642, his attorney-general impeached five leading members of the House of Commons, and one member of the House of Lords. On January 4 the king came in person to the House of Commons to seize the five members. The five took refuge in the city, which rose in their defence, and

Charles, finding the forces of the city arrayed against him, left Westminster on January 10. On January 17 the Commons set forth a declaration telling the story from their point of view, and defending their own constitutional position.

### § 5. *The Militia Ordinance and Breach between King and Parliament*

Though the king absented himself from Westminster, negotiations between him and the Parliament still continued. On February 13 he gave his consent to the last two acts which became law in his reign. The first was the Clerical Disabilities Act, by which the clergy were disabled from exercising temporal jurisdiction and the bishops were deprived of their votes in the House of Lords; the other the Impressment Act, authorizing the impressment of soldiers for the service of Ireland. The fact that an army was being brought into existence for Ireland constituted a danger for whichever of the two parties failed to hold military command, and this last act was soon followed by a claim put forward by Parliament to appoint the lords lieutenant of the counties, who were at the head of the militia or civilian army which was, in time of peace, the only force at the disposal of the king. As Charles, naturally enough, refused to give such power into the hands of those whom he regarded as his enemies, the houses, on March 5, passed a militia ordinance to the effect which they desired. An ordinance was nothing more than a bill which had been accepted by the two houses, but had not received the royal assent, and for some months the houses had claimed the right of acting on such ordinances as if they had the force of law.

For the next few months a long and wordy controversy on the legality of this step arose. In the Nineteen Propositions are set forth as a whole the constitutional changes demanded by the prevailing party at Westminster. They would simply have established government by persons appointed by Parliament in lieu of government by the king, and they may therefore be taken as definitely marking the acceptance by the majority of the House of Commons of the idea that the king's sovereignty must not merely be weakened, but practically set aside. Against this proposed system were enlisted not only the feelings of Charles, but also those of every man who disliked the ecclesiastical or civil policy of the houses. In other words, a question arose whether





the unlimited power of the houses would not be as despotically vexatious as had been the unlimited power of the king, and the solution of diminishing the sphere of government by enlarging the sphere of individual right did not as yet occur to either party.

Civil war was the natural result of such a condition of things. On June 12 Charles issued Commissions of Array to summon the militia of the counties to his side, and on July 12 the houses resolved, in addition to their claim to command the militia, to raise an army and place it under the command of the Earl of Essex. On August 22 the king raised his standard at Nottingham, and the Civil War began which was to decide, at least for a time, in whose hands was sovereignty in England.

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# CHAPTER V

## CHARLES I AND HIS ACCUSERS

AFTER their triumph in the Civil War, the determined opponents of the king, especially in the revolutionary army, confronted a very difficult situation. Believing from their past experience that the king would not keep faith, they expelled his sympathizers from the House of Commons. The remnant of the House then composed of the army party erected a high court which condemned the king to death, after a semblance of a trial. The events which followed the passage of the sentence are fully narrated by Mr. Gardiner, who then closes the account of this great crisis with one of the most remarkable historical judgments ever rendered.

### § 1. *Signing the Death Warrant*[1]

The protests against any attempt to act on the sentence of death against the king were many and loud. The members of the Assembly of Divines joined in supplicating for the king's life, and on the same day two Dutch ambassadors, who had been specially despatched from the Netherlands for the purpose, made a similar request to the House of Commons. It was also reported that Fairfax had urged the Council of Officers in the same direction, whilst it was no secret that the Prince of Wales had sent a blank sheet of paper, signed and sealed by himself, on which the Parliament might inscribe any terms they pleased. That the vast majority of the English people would have accepted this offer gladly was beyond all reasonable doubt.

It was but a small knot of men — a bare majority, if they were even that, amongst the sitting members of the High Court of Justice itself — who had fixedly determined that there should be

[1] Gardiner, *History of the Great Civil War*, Vol. IV, pp. 314 ff. By permission of Longmans, Green, & Company, Publishers.





no relenting; but they had Cromwell amongst them, and Cromwell's will, when once his mind had been made up, was absolutely inflexible. They had, moreover, behind them the greater part of the rank and file of the army, to whom the shortest issue seemed the best.

The first difficulty encountered by those who were bent on carrying out the sentence of the court was that of obtaining signatures to the death warrant in sufficient numbers to give even an appearance of unanimity amongst the judges. On Saturday, January 27, 1649, a few more signatures had been added to those obtained on the 26th, but on the morning of Monday the 29th not only were many still wanting, but there was reason to believe that some of the judges who had already signed would refuse to repeat their signatures if called on to do so. Yet it was impossible to make use of the warrant in its existing condition. It had been, as there is little doubt, dated on the 26th, and it presupposed a sentence passed on that day, whereas it was notorious that no sentence had been passed till the 27th. Under these circumstances the natural course of proceedings would have been to re-copy the warrant with altered dates and to have it signed afresh. What was actually done was to erase the existing date, and to make such other alterations as were requisite to bring the whole document into conformity with actual facts. Of the names of the three officers finally charged with the execution of the sentence, Hacker, Huncks, and Phayre, that of Huncks alone was unaltered. The names over which those of Hacker and Phayre were written are now illegible, but they can hardly fail to have been those of men who shrank from carrying out the grim duty assigned to them.

Having by this extraordinary means secured the retention of the signatures already given, the managers of the business, whoever they were, applied themselves energetically to increase the number. The testimony of those regicides who pleaded after the Restoration that they had acted under compulsion must, indeed, be received with the utmost caution; but there is no reason to doubt that considerable pressure was put upon those judges who having agreed to the sentence now showed a disinclination to sign the warrant. In all the stories by the regicides on their defence, Cromwell takes a prominent place, and it is easy to understand how meanly he must have thought of men who, after joining in passing the sentence, declined to sign the warrant. When those members of the court who were also members of Parliament took

their places in the House, Cromwell is reported to have called on them to sign without further delay. "Those that are gone in," he said, "shall set their hands. I will have their hands now."

Later in the day, when the warrant lay for signature on a table in the painted chamber, the scene grew animated. It is said that Cromwell, whose pent-up feelings sometimes manifested themselves in horse-play, drew an inky pen across Marten's face, and that Marten inked Cromwell's face in return. According to another story which was for a long time accepted as true, Cromwell dragged Ingoldsby to the table, and forced him to sign by grasping his hand with a pen in it. The firmness of Ingoldsby's signature, however, contradicts the latter part of the assertion, though it is possible that some sort of compulsion was previously used to bring him to the point.

On the whole it will be safe to assume that great pressure was put, sometimes in rough military fashion, on those who hung back. On the other hand, there is no evidence given by any of the regicides, when put upon their trial, of any definite threats being used against those who made difficulties about signing. Downes, indeed, who did not sign at all, described himself as having been frightened into assenting to the judgment, but he had nothing to say about any ill effects resulting to him on account of his refusal to sign.

In one way or another fifty-nine signatures were at last obtained. Nine out of these sixty-seven who had given sentence did not sign; but, on the other hand, Ingoldsby, who signed the warrant, had been absent when the sentence was passed. . . .

### § 2. *Mr. Gardiner's Judgment of the Puritan Revolution*

Those who brought Charles to the scaffold strengthened the revulsion of feeling in his favor which had begun to set in ever since it had been clearly brought home to the nation that its choice lay between the rule of the king and the rule of the sword. It is indeed true that the feeling hostile to the army was not created by the execution of Charles, but its intensity was greatly strengthened by the horror caused by the spectacle of sufferings so meekly endured.

Charles's own patience, and the gentleness with which he met harshness and insult, together with his own personal dignity, won hearts which might otherwise have been steeled against his pretensions. The often-quoted lines of Andrew Marvell set forth





the impression which Charles's bearing on the scaffold produced on even hostile spectators: —

> He nothing common did or mean
> Upon that memorable scene,
> But with his keener eye
> The axe's edge did try;
> Nor called the gods, with vulgar spite,
> To vindicate his helpless right;
> But bowed his comely head
> Down, as upon a bed.

Marvell's verses embodied his own recollections of the external dignity of the man. A little book, which under the title of *Eikon Basilikê* was issued with calculated timeliness to the world on February 9, the day after the king's funeral, purported to be the product of Charles's own pen, and aimed at being a spiritual revelation of the inmost thoughts of the justest of sovereigns and the most self-denying of martyrs. Its real author, Dr. John Gauden, a nominally Presbyterian divine, caught with great felicity the higher motives which were never absent from Charles's mind, and gave to the narratives and meditations of which the book consisted enough of dramatic veracity to convince all who were prepared to believe it that they had before them the real thoughts of the man who had died because he refused to sacrifice law and religion to an intriguing Parliament and a ruffianly army. The demand for the book was well-nigh unlimited. Edition after edition was exhausted almost as soon as it left the press. The greedily devoured volumes served to create an ideal image of Charles which went far to make the permanent overthrow of the monarchy impossible.

The ideal thus created had the stronger hold on men's minds because it faithfully produced at least one side of Charles's character. The other side — his persistent determination to ignore all opinions divergent from his own, and to treat all by whom they were entertained as knaves or fools — had been abundantly illustrated in the course of the various negotiations which had been carried on from time to time in the course of the Civil War. It finally led to a struggle for the possession of that Negative Voice which, if only the king could succeed in retaining it, would enable him to frustrate all new legislation even when supported by a determined national resolve. On the one side were undoubtedly both law and tradition; on the other side the necessity of

shaping legislation by the wishes of the nation, and not by the wishes of any single man or of a single class.

Fortunately or unfortunately, such abstract considerations seldom admit of direct application to politics. It is at all times hard to discover what the wishes of a nation really are, and least of all can this be done amidst the fears and passions of a revolutionary struggle. Only after long years does a nation make clear its definite resolve, and for this reason wise statesmen — whether monarchical or republican — watch the currents of opinion and submit to compromises which will enable the national sentiment to make its way without a succession of violent shocks. Charles's fault lay not so much in his claim to retain the Negative Voice as in his absolute disregard of the conditions of the time, and of the feelings and opinions of every class of his subjects with which he happened to disagree. Even if those who opposed Charles in the later stages of his career failed to rally the majority of the people to their side, they were undoubtedly acting in accordance with a permanent national demand for that government of compromise which slowly but irresistibly developed itself in the course of the century.

Nor can it be doubted that if Charles had, under any conditions, been permitted to re-seat himself on the throne, he would quickly have provoked a new resistance. As long as he remained a factor in English politics, government by compromise was impossible. His own conception of government was that of a wise prince constantly interfering to check the madness of the people. In the Isle of Wight he wrote down with approval the lines in which Claudian, the servile poet of the court of Honorius, declared it to be an error to give the name of slavery to the service of the best of princes, and asserted that liberty never had a greater charm than under a pious king. Even on the scaffold he reminded his subjects that a share in the government was nothing appertaining to the people. It was the tragedy of Charles's life that he was entirely unable to satisfy the cravings of those who inarticulately hoped for the establishment of a monarchy which, while it kept up the old traditions of the country, and thus saved England from a blind plunge into an unknown future, would yet allow the people of the country to be to some extent masters of their own destiny.

Yet if Charles persistently alienated this large and important section of his subjects, so also did his most determined opponents. The very merits of the Independents — their love of toleration





and of legal and political reform, together with their advocacy of democratic change — raised opposition in a nation which was prepared for none of these things, and drove them step by step to rely on armed strength rather than upon the free play of constitutional action. But for this it is probable that the Vote of No Addresses would have received a practically unanimous support in the Parliament and the nation, and that in the beginning of 1648 Charles would have been dethroned and a new government of some kind or other established with good hope of success. As it was, in their despair of constitutional support, the Independents were led in spite of their better feelings to the employment of the army as an instrument of government.

The situation, complicated enough already, had been still further complicated by Charles's duplicity. Men who would have been willing to come to terms with him despaired of any constitutional arrangement in which he was to be a factor, and men who had long been alienated from him were irritated into active hostility. By these he was regarded with increasing intensity as the one disturbing force with which no understanding was possible and no settled order consistent. To remove him out of the way appeared, even to those who had no thought of punishing him for past offences, to be the only possible road to peace for the troubled nation. It seemed that so long as Charles lived, deluded nations and deluded parties would be stirred up by promises never intended to be fulfilled, to fling themselves, as they had flung themselves in the second Civil War, against the new order of things which was struggling to establish itself in England.

Of this latter class Cromwell made himself the mouthpiece. Himself a man of compromises, he had been thrust, sorely against his will, into direct antagonism with the uncompromising king. He had striven long to mediate between the old order and the new, first by restoring Charles as a constitutional king, and afterwards by substituting one of his children for him. Failing in this, and angered by the persistence with which Charles stirred up Scottish armies and Irish armies against England, Cromwell finally associated himself with those who cried out most loudly for the king's blood. No one knew better than Cromwell that it was folly to cover the execution of the king with the semblance of constitutional propriety, and he may well have thought that, though law and constitution had both broken down, the first step to be taken towards their reconstruction was the infliction of the penalty

of death upon the man who had shown himself so wanting in that elemental quality of veracity upon which laws and constitutions are built up. All that is known of Cromwell's conduct at the trial — his anger with Downes's scruples and the pressure which he put upon those who were unwilling to sign the death-warrant — point to his contempt for the legal forms with which others were attempting to cover an action essentially illegal.

Tradition has handed down an anecdote which points to the same explanation of the workings of Cromwell's mind. "The night after King Charles was beheaded," it is said, "my Lord Southampton and a friend of his got leave to sit up by the body in the banqueting house at Whitehall. As they were sitting very melancholy there, about two o'clock in the morning they heard the tread of somebody coming very slowly upstairs. By and by the door opened, and a man entered very much muffled up in his cloak, and his face quite hid in it. He approached the body, considered it very attentively for some time, and then shook his head, sighed out the words, 'Cruel necessity!' He then departed in the same slow and concealed manner as he had come. Lord Southampton used to say that he could not distinguish anything of his face; but that by his voice and gait he took him to be Oliver Cromwell."

Whether the necessity really existed or was but the tyrant's plea is a question upon the answer to which men have long differed, and will probably continue to differ. All can perceive that with Charles's death the main obstacle to the establishment of a constitutional system was removed. Personal rulers might indeed reappear, and Parliament had not yet so displayed its superiority as a governing power to make Englishmen anxious to dispense with monarchy in some form or other. The monarchy, as Charles understood it, had disappeared forever. Insecurity of tenure would make it impossible for future rulers long to set public opinion at naught, as Charles had done. The scaffold at Whitehall accomplished that which neither the eloquence of Eliot and Pym nor the statutes and ordinances of the Long Parliament had been capable of effecting.

So far the work of Cromwell and his associates had been purely negative. They had overthrown everything; they had constituted nothing. They fondly hoped that when the obstacle to peace had been removed, they would be able securely to walk in the ways of peace. It was not so to be. The sword destroys but it can do no more, and it would be left for others than the stern warriors





who guarded the scaffold of the king to build up slowly and painfully that edifice of constitutional compromise for which Cromwell had cleared the ground.

### Bibliographical Note

Compare the judgment given above by Gardiner with those rendered by Morley, Firth, and Harrison in their lives of Cromwell. Hallam, *Constitutional History*, Part I, chap. x. Ranke, *History of England*, Vol. II, chap. vi.



# CHAPTER VI

## CROMWELL AND PARLIAMENT

THE Puritans found opposition and fighting a great deal easier than governing a country which was royalist at heart. They did not dare to call a freely elected Parliament and let the nation decide on the form of government to be adopted. The remnant of the Long Parliament which continued to sit after the execution of the king was divided into factions, and many of the members were corruptly seeking their own advancement. When Cromwell urged this Parliament to dissolve itself, it proposed that the members then sitting should be continued in the new Parliament without election and should exercise the right to exclude new members whom they did not approve. This roused the ire of Cromwell, and in April, 1653, he forcibly dissolved the assembly but refused to call an elected Parliament which he had been urging.

### § 1. *The Issues between the Army and Parliament*[1]

The military revolution of 1653 is the next tall landmark after the execution of the king. It is almost a commonplace that "we do not know what party means if we suppose that its leader is its master," and the real extent of Cromwell's power over the army is hard to measure. In the spring of 1647, when the first violent breach between army and Parliament took place, the extremists swept him off his feet. Then he acquiesced in Pride's Purge, but he did not originate it. In the action that preceded the trial and despatching of the king it seems to have been Harrison who took the leading part. In 1653 Cromwell said, "Major-General Harrison is an honest man, and aims at good things; yet from the impatience of his spirit, he will not wait the Lord's leisure, but

[1] Morley, *Cromwell*, pp. 329 ff. By permission of The Century Company, Publishers.





hurries one into that which he and all honest men will have cause to repent." If we remember how hard it is to fathom decisive passages in the history of our own time, we see how much of that which we would most gladly know in the distant past must ever remain a surmise. But the best opinion in respect of the revolution of April, 1653, seems to be that the Royalists were not wrong who wrote that Cromwell's authority in the army depended much on Harrison and Lambert and their fanatical factions; that he was forced to go with them in order to save himself; and that he was the member of the triumvirate who was most anxious to wait the Lord's leisure yet a while longer.

The immediate plea for the act of violence that now followed is as obscure as any other of Cromwell's proceedings. In the closing months of 1652 he once more procured occasions of conference between himself and his officers on the one hand, and members of Parliament on the other. He besought the Parliament men by their own means to bring forth of their own accord the good things that had been promised and were so long expected — "so tender were we to preserve them in the reputation of the people." The list of "good things" demanded by the army in the autumn of 1652 hardly supports the modern exaltation of the army as the seat of political sagacity. The payment of arrears, the suppression of vagabonds, the provision of work for the poor, were objects easy to ask, but impossible to achieve. The request for a new election was the least sensible of all.

When it was known that the army was again waiting on God and confessing its sinfulness, things were felt to look grave. Seeing the agitation, the Parliament applied themselves in earnest to frame a scheme for a new representative body. The army believed that the scheme was a sham, and that the semblance of giving the people a real right of choice was only to fill up vacant seats by such persons as the House now in possession should approve. This was nothing less than to perpetuate themselves indefinitely. Cromwell and the officers had a scheme of their own: that the Parliament should name a certain number of men of the right sort, and these nominees should build a constitution. The Parliament, in other words, was to abdicate after calling a constituent convention. On April 19 a meeting took place in Oliver's apartment at Whitehall with a score of the more important members of Parliament. There the plan of the officers and the rival plan of Vane and his friends were brought face to face. What the exact scheme of the Parliament was, we cannot accurately tell, and we

are never likely to know. Cromwell's own descriptions of it are vague and unintelligible. The bill itself he carried away with him under his cloak when the evil day came, and no copy of it survived. It appears, however, that in Vane's belief the best device for a provisional government — and no other than a provisional government was then possible — was that the remnant should continue to sit, the men who fought deadly battles at Westminster in 1647 and 1648, the men who had founded the Commonwealth in 1649, the men who had carried on its work with extraordinary energy and success for four years and more. These were to continue to sit as a nucleus for a full representative, joining to themselves such new men from the constituencies as they thought not likely to betray the cause. On the whole we may believe that this was perhaps the least unpromising way out of difficulties where nothing was very promising. It was to avoid the most fatal of all the errors of the French Constituent, which excluded all its members from office and from seats in the Legislative Assembly to whose inexperienced hands it was intrusting the government of France. To blame its authors for fettering the popular choice was absurd in Cromwell, whose own proposal instead of a legislature to be partially and periodically renewed (if that was really what Vane meant) was now for a nominated council without any element of popular choice at all. The army, we should not forget, were even less prepared than the Parliament for anything like a free and open general election. Both alike intended to reserve Parliamentary representation exclusively to such as were godly men and faithful to the interests of the Commonwealth. An open general election would have been as hazardous and probably as disastrous now as at any moment since the defeat of King Charles in the field, and a real appeal to the country would only have meant ruin to the good cause. Neither Cromwell, nor Lambert, nor Harrison, nor any of them, dreamed that a Parliament to be chosen without restrictions would be a safe experiment. The only questions were: what the restrictions were to be, who was to impose them, who was to guard and supervise them. The Parliamentary Remnant regarded themselves as the fittest custodians, and it is hard to say that they were wrong. In judging these events of 1653 we must look forward to events three years later. Cromwell had a Parliament of his own in 1654; it consisted of four hundred and sixty members; almost his first step was to prevent more than a hundred of them from taking their seats. He may have been right; but why was the Parliament wrong for acting on the same





principle? He had another Parliament in 1656, and again he began by shutting out nearly a hundred of its elected members. When the army cried for a dissolution, they had no ideas as to the Parliament that was to follow. At least this much is certain: that whatever failure might have overtaken the plan of Vane and the Parliament, it could not have been more complete than the failure that overtook the plan of Cromwell.

Apart from the question of the constitution of Parliament, and perhaps regarding that as secondary, Cromwell quarrelled with what, rightly or wrongly, he describes as the ultimate ideal of Vane and his friends. We should have had fine work, he said four years later — a council of State and a Parliament of four hundred men executing arbitrary government, and continuing the existing usurpation of the duties of the law courts by legislature and executive. Undoubtedly "a horrid degree of arbitrariness" was practised by the Rump, but some allowance was to be made for a government in revolution; and if that plea be not good for the Parliament, one knows not why it should be good for the no less "horrid arbitrariness" of the Protector. As for the general character of the constitution here said to be contemplated by the Remnant, it has been compared to the French convention of 1793; but a less odious and a truer parallel would be with the Swiss Confederacy to-day. However this may be, if dictatorship was indispensable, the dictatorship of an energetic Parliamentary oligarchy was at least as hopeful as that of an oligarchy of soldiers. When the soldiers had tried their hands and failed, it was to some such plan as this that, after years of turmoil and vicissitude, Milton turned. At worst it was no plan that either required or justified violent deposition by a file of troopers.

### § 2. *Forcible Dissolution of Parliament*

The conference in Cromwell's apartments at Whitehall on April 10 was instantly followed by one of those violent outrages for which we have to find a name in the dialect of continental revolution. It had been agreed that discussion should be resumed the next day, and meanwhile that nothing should be done with the bill in Parliament. When the next morning came, news was brought to Whitehall that the members had already assembled, were pushing the bill through at full speed, and that it was on the point of becoming law forthwith. At first Cromwell and the officers could not believe that Vane and his friends were capable

of such a breach of their word. Soon there came a second messenger and a third, with assurance that the tidings were true, and that not a moment was to be lost if the bill was to be prevented from passing. It is perfectly possible that there was no breach of word at all. The Parliamentary probabilities are that the news of the conference excited the jealousy of the private members, as arrangements between front benches are at all times apt to do; that they took the business into their own hands, and that the leaders were powerless. In astonishment and anger, Cromwell, in no more ceremonial apparel than his plain black clothes and gray worsted stockings, hastened to the House of Commons. He ordered a guard of soldiers to go with him. That he rose that morning with the intention of following the counsels that the impatience of the army had long prompted, and finally completing the series of exclusions, mutilations, and purges by breaking up the Parliament altogether, there is no reason to believe. Long premeditation was never Cromwell's way. He waited for the indwelling voice, and more than once, in the rough tempests of his life, that demoniac voice was a blast of coarse and uncontrolled fury. Hence came one of the most memorable scenes of English history. There is a certain discord as to details among our too scanty authorities, some even describing the fatal transaction as passing with much modesty and as little noise as can be imagined. The description derived by Ludlow who was not present, from Harrison who was, gathers up all that seems material. There appear to have been between fifty and sixty members present.

"Cromwell sat down and heard the debate for some time. Then calling to Major-General Harrison, who was on the other side of the House, to come to him, he told him that he judged the Parliament ripe for a dissolution and this to be the time for doing it. The major-general answered, as he since told me, 'Sir, the work is very great and dangerous: therefore I desire you seriously to consider of it before you engage in it.' 'You say well,' replied the general, and thereupon sat still for about a quarter of an hour. Then, the question for passing the bill being to be put, he said to Major-General Harrison, 'This is the time: I must do it,' and suddenly standing up made a speech, wherein he loaded the Parliament with the vilest reproaches, charging them not to have a heart to do anything for the public good, to have espoused the corrupt interest of presbytery and the lawyers, who were the supporters of tyranny and oppression, accusing them of an intention to perpetuate themselves in power; they had not been forced to





the passing of this act, which he affirmed they designed never to observe, and thereupon told them that the Lord had done with them and had chosen other instruments for the carrying on His work that were more worthy. This he spoke with so much passion and discomposure of mind as if he had been distracted. Sir Peter Wentworth stood up to answer him, and said that this was the first time that he had ever heard such unbecoming language given to the Parliament, and that it was the more horrid in that it came from their servant, and their servant whom they had so highly trusted and obliged. But, as he was going on, the general stepped into the midst of the House, where, continuing his distracted language, he said, 'Come, come: I will put an end to your prating.' Then, walking up and down the House like a madman, and kicking the ground with his feet, he cried out, 'You are no Parliament; I say you are no Parliament; I will put an end to your sitting; call them in, call them in.' Whereupon the sergeant attending the Parliament opened the doors; and Lieutenant-Colonel Wolseley, with two files of musketeers, entered the House, which Sir Henry Vane observing from his place said aloud, 'This is not honest; yea, it is against morality and common honesty.' Then Cromwell fell a-railing at him, crying out with a loud voice, 'Oh, Sir Henry Vane, Sir Henry Vane, the Lord deliver me from Sir Henry Vane!' Then, looking to one of the members, he said: 'There sits a drunkard' . . . and, giving much reviling language to others, he commanded the mace to be taken away, saying, 'What shall we do with this bauble? There, take it away.' He having brought all into this disorder, Major-General Harrison went to the speaker as he sat in the chair, and told him that, seeing things were reduced to this pass, it would not be convenient for him to remain there. The speaker answered that he would not come down unless he were forced. 'Sir,' said Harrison, 'I will lend you my hand'; and thereupon, putting his hand within his, the speaker came down. Then Cromwell applied himself to the members of the House . . . and said to them, 'It is you that have forced me to do this, for I have sought the Lord night and day that He would rather slay me than put me on the doing of this work!' (Then) Cromwell . . . ordered the House to be cleared of all the members . . . after which he went to the clerk, and snatching the Act of Dissolution, which was ready to pass, out of his hand, he put it under his cloak, and, having commanded the doors to be locked up, went away to Whitehall."

### § 3. *Significance of the Dissolution of Parliament*

The fierce work was consummated in the afternoon. Cromwell heard that the Council of State, the creation of the destroyed legislature, was sitting as usual. Thither he repaired with Lambert and Harrison by his side. He seems to have recovered composure. "If you are met here as private persons," Cromwell said, "you shall not be disturbed; but if as a Council of State, this is no place for you; and since you cannot but know what was done at the House this morning, so take notice that the Parliament is dissolved." Bradshaw, who was in the chair, was not cowed. He had not quailed before a more dread scene with Charles four years ago. "Sir," he replied, "we have heard what you did at the House this morning, and before many hours all England will hear it; but, sir, you are mistaken to think that the Parliament is dissolved; for no power under heaven can dissolve them but themselves; therefore take you notice of that."

Whatever else is to be said, it is well to remember that to condemn the Rump is to go a long way towards condemning the revolution. To justify Cromwell's violence in breaking it up, is to go a long way toward justifying Hyde and even Strafford. If the Commons had really sunk into the condition described by Oliver in his passion, such ignominy showed that the classes represented by it were really incompetent, as men like Strafford had always deliberately believed, to take that supreme share in governing the country for which Pym and his generation of reformers had so manfully contended. For the Remnant was the quintessence left after a long series of elaborate distillations. They were not Presbyterians, moderates, respectables, bourgeois, pedants, Girondins. They, the great majority of them, were the men who had resisted a continuance of the negotiations at Newport. They had made themselves accomplices in Pride's Purge. They had ordered the trial of the king. They had set up the Commonwealth without lords or monarch. They were deep in all the proceedings of Cromwellian Thorough. They were the very cream after purification upon purification. If they could not govern, who could?

We have seen the harsh complaints of Cromwell against the Parliament in 1652: how selfish its members were; how ready to break into factions; how slow in business; how scandalous th lives of some of them. Yet this seems little better than the i





patient indictment of the soldier, if we remember how only a few months before the French agent had told Mazarin of the new rulers of the Commonwealth: "Not only were they powerful by sea and land, but they live without ostentation. . . . They were economical in their private expenses, and prodigal in their devotion to public affairs, for which each one toils as if for his personal interests. They handle large sums of money, which they administer honestly." We cannot suppose that two years had transformed such men into the guilty objects of Cromwell's censorious attack. Cromwell admitted, after he had violently broken them up, that there were persons of honor and integrity among them who had eminently appeared for God and for the public good both before and throughout the war. It would in truth have been ludicrous to say otherwise of a body that contained patriots so unblemished in fidelity, energy, and capacity as Vane, Scot, Bradshaw, and others. Nor is there any good reason to believe that these men of honor and integrity were a hopeless minority. We need not indeed suppose that the Rump was without time-servers. Perhaps no deliberate assembly in the world ever is without them, for time-serving has its roots in human nature. The question is what proportion the time-servers bore to the whole. There is no sign that it was large. But whether large or small, to deal with time-servers is part, and no inconsiderable part, of the statesman's business, and it is hard to see how with this poor breed Oliver could have dealt worse.

Again, in breaking up Parliament he committed what in modern politics is counted the inexpiable sin of breaking up his party. This was the gravest of all. This was what made the Revolution of 1653 a turning-point. The Presbyterians hated him as the greatest of Independents. He had already set a deep gulf between himself and the Royalists of every shade by killing the king. To the enmity of the legitimists of a dynasty was now added the enmity of the legitimists of Parliament. By destroying the Parliamentary Remnant he set a new gulf between himself and most of the best men on his own side. Where was the policy? What foundations had he left himself to build upon? What was his calculation, or had he no calculation, of forces, circumstances, individuals, for the step that was to come next? When he stamped in wrath out of the desecrated House, had he ever firmly counted the cost? Or was he in truth as improvident as King Charles had been when he, too, marched down the same floor eleven years ago? In one sense his own creed erected improvidence into a principle.

"Own your call," he says to the first of his own Parliaments, "for it is marvellous, and it hath been unprojected. It's not long since either you or we came to know of it. And indeed this hath been the way God dealt with us all along. To keep things from our eyes all along, so that we have seen nothing in all His dispensations long beforehand." And there is the famous saying of his, that "he goes furthest who knows not where he is going," — of which Retz said that it showed Cromwell to be a simpleton. We may at least admit the peril of a helmsman who does not forecast his course.

It is true that the situation was a revolutionary one, and the Remnant was no more a legal Parliament than Cromwell was a legal monarch. The constitution had long vanished from the stage. From the day in May, 1641, when the king had assented to the bill, making a dissolution depend on the will of Parliament, down to the days in March, 1649, when the mutilated Commons abolished the House of Lords and the office of king, story after story of the constitutional fabric had come crashing to the ground. The Rump alone was left to stand for the old tradition of Parliament and it was still clothed, even in the minds of those who were most querulous about its present failure of performance, with a host of venerated associations — the same associations that had lifted up men's hearts all through the fierce tumults of civil war. The rude destruction of the Parliament gave men a shock that awakened in some of them angry distrust of Cromwell, in others a broad resentment at the overthrow of the noblest of experiments, and in the largest class of all, deep misgivings as to the past, silent self-questioning whether the whole movement since 1641 had not been a grave and terrible mistake.

Guizot truly says of Cromwell that he was one of the men who know that even the best course in political action always has its drawbacks, and who accept, without flinching, the difficulties that might be laid upon them by their own decisions. This time, however, the day was not long in coming when Oliver saw reason to look back with regret upon those whom he now handled with such impetuous severity. When he quarrelled with the first Parliament of his Protectorate, less than two years hence, he used his old foes, if foes they were, for a topic of reproach against his new ones. "I will say this on behalf of the Long Parliament, that had such an expedient as this government (the Instrument) been proposed to them, and could they have seen the cause of God provided for, and been by debates enlightened in the grounds of it,

whereby the difficulties might have been cleared to them, and the reason of the whole enforced, and the circumstances of time and persons, with the temper and disposition of the people, and affairs both abroad and at home might have been well weighed, I think in my conscience — well as they were thought to love their seats — they would have proceeded in another manner than you have done." To cut off in a fit of passion the chance of such a thing was a false step that he was never able to retrieve.

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# CHAPTER VII

## THE RESTORATION SETTLEMENT IN STATE AND CHURCH

ALL during the Puritan Revolution the majority of English people were doubtless loyal to the king, and when Cromwell died in 1658, factions broke out in the army, by which alone the Protectorate had been maintained. The people, moreover, were heartily tired of an absolutism more expensive and galling than the personal government of Charles I. The restoration of the monarchy was inevitable. In 1660 a freely elected convention Parliament met, and having received fair promises from Charles II in his Declaration of Breda, it announced that "according to the ancient and fundamental laws of this kingdom, the government is and ought to be by King, Lords, and Commons." In May, 1660, Charles landed in England and was duly invested with royal authority.

### § 1. *The Restoration and Problems for Settlement*[1]

It is universally acknowledged that no measure was ever more national, or has ever produced more testimonies of public approbation, than the restoration of Charles II. Nor can this be attributed to the usual fickleness of the multitude. For the late government, whether under the Parliament or the Protector, had never obtained the sanction of popular consent, nor could have subsisted for a day without the support of the army. The king's return seemed to the people the harbinger of a real liberty, instead of that bastard Commonwealth which had insulted them with its name — a liberty secure from enormous assessments, which, even when lawfully imposed, the English had always paid with reluctance, and from the insolent despotism of the soldiery. The young and lively looked forward to a release from the rigors of fanaticism, and were too ready to exchange that hypocritical austerity of the late times for a licentiousness and impiety that became characteristic of the

[1] Hallam, *Constitutional History of England*, Vol. II, pp. 68 ff.

present. In this tumult of exulting hope and joy there was much to excite anxious forebodings in calmer men; and it was by no means safe to pronounce that a change so generally demanded, and in most respects so expedient, could be effected without very serious sacrifices of public and particular interests.

Four subjects of great importance, and some of them very difficult, occupied the convention Parliament from the time of the king's return till their dissolution in the following December: a general indemnity and legal oblivion of all that had been done amiss in the late interruption of government; an adjustment of the claims for reparation which the crown, the Church, and private loyalists had to prefer; a provision for the king's revenue, consistent with the abolition of military tenures; and the settlement of the Church. These were, in effect, the articles of a sort of treaty between the king and the nation, without some legislative provisions as to which no stable or tranquil course of law could be expected.

### § 2. *Punishment of the Revolutionists*

The king in his well-known Declaration from Breda, dated the 14th of April, had laid down, as it were, certain bases of his restoration, as to some points which he knew to excite much apprehension in England. One of these was a free and general pardon to all his subjects, saving only such as should be excepted by Parliament. It had always been the king's expectation, or at least that of his chancellor, that all who had been immediately concerned in his father's death should be delivered up to punishment; and, in the most unpropitious state of his fortunes, while making all professions of pardon and favor to different parties, he had constantly excepted the regicides. Monk, however, had advised, in his first messages to the king, that none, or at most not above four, should be excepted on this account; and the Commons voted that not more than seven persons should lose the benefit of the indemnity both as to life and estate. Yet, after having named seven of the late king's judges, they proceeded in a few days to add several more, who had been concerned in managing his trial, or otherwise forward in promoting his death. They went on to pitch upon twenty persons, whom, on account of their deep concern in the transactions of the last twelve years, they determined to affect with penalties not extending to death and to be determined by some future act of Parliament. As their passions grew warmer, and the wishes of the court became better known,





they came to except from all benefit of the indemnity such of the king's judges as had not rendered themselves to justice according to the late proclamation. In this state the bill of indemnity and oblivion was sent up to the Lords. But in that House the old Royalists had a more decisive preponderance than among the Commons. They voted to except all who had signed the death-warrant against Charles I, or sat when sentence was pronounced, and five others by name, — Hacker, Vane, Lambert, Haslerig, and Axtell. They struck out, on the other hand, the clause reserving Lenthall and the rest of the same class for future penalties. They made other alterations in the bill to render it more severe; and with these, after a pretty long delay, and a positive message from the king, requesting them to hasten their proceedings (an irregularity to which they took no exception, and which in the eyes of the nation was justified by circumstances), they returned the bill to the Commons.

The vindictive spirit displayed by the Upper House was not agreeable to the better temper of the Commons, where the Presbyterian or moderate party retained great influence. Though the king's judges (such, at least, as had signed the death-warrant) were equally guilty, it was consonant to the practice of all humane governments to make a selection for capital penalties; and to put forty or fifty persons to death for that offence seemed a very sanguinary course of proceeding, and not likely to promote the conciliation and oblivion so much cried up. But there was a yet stronger objection to this severity. The king had published a proclamation, in a few days after his landing, commanding his father's judges to render themselves up within fourteen days, on pain of being excepted from any pardon or indemnity, either as to their lives or estates. Many had voluntarily come in, having put an obvious construction on this proclamation. It seems to admit of little question that the king's faith was pledged to those persons, and that no advantage could be taken of any ambiguity in the proclamation without as real perfidiousness as if the words had been more express. They were at least entitled to be set at liberty, and to have a reasonable time allowed for making their escape, if it were determined to exclude them from the indemnity. The Commons were more mindful of the king's honor and their own than his nearest advisers. But the violent Royalists were gaining ground among them, and it ended in a compromise. They left Hacker and Axtell, who had been prominently concerned in the king's death, to their fate. They even admitted the exceptions of Vane and

Lambert, contenting themselves with a joint address of both houses to the king, that, if they should be attainted, execution as to their lives might be remitted. Haslerig was saved on a division of one hundred and forty-one to one hundred and sixteen, partly through the intercession of Monk, who had pledged his word to him. Most of the king's judges were entirely excepted; but with a proviso in favor of such as had surrendered according to the proclamation, that the sentence should not be executed without a special act of Parliament. Others were reserved for penalties not extending to life, to be inflicted by a future act. About twenty enumerated persons, as well as those who had pronounced sentence of death in any of the late illegal high courts of justice, were rendered incapable of any civil or military office. Thus after three months' delay, which had given room to distrust the boasted clemency and forgiveness of the victorious Royalists, the Act of Indemnity was finally passed.

Ten persons suffered death soon afterwards for the murder of Charles I, and three more who had been seized in Holland after a considerable lapse of time. There can be no reasonable ground for censuring either the king or the Parliament for their punishment, except that Hugh Peters, though a very odious fanatic, was not so directly implicated in the king's death as many who escaped, and the execution of Scrope, who had surrendered under the proclamation, was an inexcusable breach of faith. But nothing can be more sophistical than to pretend that such men as Hollis and Annesley, who had been expelled from Parliament by the violence of the same faction who put the king to death, were not to vote for their punishment, or to sit in judgment on them, because they had sided with the Commons in the civil war. It is mentioned by many writers, and in the Journals, that when Mr. Lenthall, son of the late speaker, in the very first days of the Convention Parliament, was led to say that those who had levied war against the king were as blamable as those who had cut off his head, he received a reprimand from the chair, which the folly and dangerous consequence of his position well deserved; for such language though it seems to have been used by him in extenuation of the regicides, was quite in the tone of the violent Royalists.

### § 3. *Adjustment of the Land Claims*

A question apparently far more difficult was that of restitution and redress. The crown lands, those of the Church, the estates

in certain instances of eminent Royalists had been sold by the authority of the late usurpers, and that not at very low rates, considering the precariousness of the title. This naturally seemed a material obstacle to the restoration of ancient rights, especially in the case of ecclesiastical corporations, whom men are commonly less disposed to favor than private persons. The clergy themselves had never expected that their estates would revert to them in full propriety, and would probably have been contented, at the moment of the king's return, to grant easy leases to the purchasers. Nor were the House of Commons, many of whom were interested in these sales, inclined to let in the former owners without conditions. A bill was accordingly brought into the House at the beginning of the session to confirm sales, or give indemnity to the purchasers. I do not find its provisions more particularly stated. The zeal of the Royalists soon caused the crown lands to be excepted. But the House adhered to the principle of composition as to ecclesiastical property, and kept the bill a long time in debate.

At the adjournment in September the chancellor told them his Majesty had thought much upon the business, and done much for the accommodation of many particular persons, and doubted not but that, before they met again, a good progress would be made, so that the persons concerned would be much to blame if they received not full satisfaction, promising also to advise with some of the Commons as to that settlement. These expressions indicate a design to take the matter out of the hands of Parliament. For it was Hyde's firm resolution to replace the Church in the whole of its property, without any other regard to the actual possessors than the right owners should severally think it equitable to display. And this, as may be supposed, proved very small. No further steps were taken on the meeting of Parliament after the adjournment, and by the dissolution the parties were left to the common course of law. The Church, the crown, the dispossessed Royalists, reëntered triumphantly on their lands; there were no means of repelling the owners' claim, nor any satisfaction to be looked for by the purchasers under so defective a title. It must be owned that the facility with which this was accomplished is a striking testimony to the strength of the new government and the concurrence of the nation. This is the more remarkable, if it be true, as Ludlow informs us, that the chapter lands had been sold by the trustees appointed by Parliament at the clear income of fifteen or seventeen years' purchase.

The great body, however, of the suffering cavaliers, who had





compounded for their delinquency under the ordinances of the Long Parliament, or whose estates had been for a time in sequestration, found no remedy for these losses by any process of law. The Act of Indemnity put a stop to any suits they might have instituted against persons concerned in carrying these illegal ordinances into execution. They were compelled to put up with their poverty, having the additional mortification of seeing one class, namely, the clergy, who had been engaged in the same cause, not alike in their fortune, and many even of the vanquished republicans undisturbed in wealth which, directly or indirectly, they deemed acquired at their own expense. They called the statute an Act of Indemnity for the king's enemies, and of oblivion for his friends. They murmured at the ingratitude of Charles, as if he were bound to forfeit his honor and risk his throne for their sakes. They conceived a deep hatred of Clarendon, whose steady adherence to the great principles of the Act of Indemnity is the most honorable act of his public life. And the discontent engendered by their disappointed hopes led to some part of the opposition afterwards experienced by the king and still more certainly to the coalition against the minister.

### § 4. *Abolition of Ancient Feudal Burdens*

No one cause had so eminently contributed to the dissensions between the crown and Parliament, in the last two reigns, as the disproportion between the public revenues under a rapidly increasing depreciation in the value of money and the exigencies, at least on some occasions, of the administration. There could be no apology for the parsimonious reluctance of the Commons to grant supplies, except the constitutional necessity of rendering them the condition of redress of grievances; and in the present circumstances, satisfied, as they seemed at least to be, with the securities they had obtained, and enamoured of their new sovereign, it was reasonable to make some further provision for the current expenditure. Yet this was to be meted out with such prudence as not to place him beyond the necessity of frequent recurrence to their aid. A committee was accordingly appointed "to consider of settling such a revenue on his Majesty as may maintain the splendor and grandeur of his kingly office, and preserve the crown from want and from being undervalued by his neighbors." By their report it appeared that the revenue of Charles I from 1637 to 1641 had amounted on an average to about £900,000, of which full £200,000

arose from sources either not warranted by law or no longer available. The House resolved to raise the present king's income to £1,200,000 per annum, a sum perhaps sufficient in those times for the ordinary charges of government. But the funds assigned to produce his revenue soon fell short of the Parliament's calculation.

One ancient fountain that had poured its stream into the royal treasury it was now determined to close up forever. The feudal tenures had brought with them at the Conquest, or not long after, those incidents, as they were usually called, or emoluments of seigniory, which remained after the military character of fiefs had been nearly effaced, especially the right of detaining the estates of minors holding in chivalry without accounting for the profits. This galling burden, incomparably more ruinous to the tenant than beneficial to the lord, it had long been determined to remove. Charles, at the treaty of Newport, had consented to give it up for a fixed revenue of £100,000, and this was almost the only part of that ineffectual compact which the present Parliament were anxious to complete. The king, though likely to lose much patronage and influence, and what passed with lawyers for a high attribute of his prerogative, could not decently refuse a commutation so evidently advantageous to the aristocracy. No great difference of opinion subsisting as to the expediency of taking away military tenures, it remained only to decide from what resources the commutation revenue should spring. Two schemes were suggested: the one, a permanent tax on lands held in chivalry (which, as distinguished from those in socage, were alone liable to the feudal burdens); the other an excise on beer and some other liquors. It is evident that the former was founded on a just principle, while the latter transferred a particular burden to the community. But the self-interest which so unhappily predominates even in representative assemblies, with the aid of the courtiers who knew that an excise increasing with the riches of the country was far more desirable for the crown than a fixed land-tax, caused the former to be carried, though by the very small majority of two voices. Yet even thus, if the impoverishment of the gentry, and dilapidation of their estates through the detestable abuses of wardship was, as cannot be doubted, very mischievous to the inferior classes, the whole community must be reckoned gainers by the arrangement, though it might have been conducted in a more equitable manner.

The statute 12 Car. II, c. 24, takes away the court of wards, with all wardships and forfeitures for marriage by reason of tenure, all





primer seizins and fines for alienation, aids, escuages, homages, and tenures by chivalry without exception, save the honorary services of grand sergeanty, converting all such tenures into common socage. The same statute abolishes those famous rights of purveyance and preëmption, the fruitful theme of so many complaining Parliaments; and this relief of the people from a general burden may serve in some measure as an apology for the imposition of the excise. This act may be said to have wrought an important change in the spirit of our constitution, by reducing what is emphatically called the prerogative of the crown, and which, by its practical exhibition in these two vexatious exercises of power, wardship and purveyance, kept up in the minds of the people a more distinct perception, as well as more awe, of the monarchy, than could be felt in later periods, when it has become, as it were, merged in the common course of law, and blended with the very complex mechanism of our institutions. This great innovation, however, is properly to be referred to the revolution of 1641, which put an end to the court of star chamber, and suspended the feudal superiorities. Hence with all the misconduct of the two last Stuarts, and all the tendency towards arbitrary power that their government often displayed, we must perceive that the constitution had put on, in a very great degree, its modern character during that period; the boundaries of prerogative were better understood; its pretensions, at least in public, were less enormous; and not so many violent and oppressive, certainly not so many illegal, acts were committed towards individuals as under the two first of their family.

### § 5. *Disbandment of the Army*

In fixing upon £1,200,000 as a competent revenue for the crown, the Commons tacitly gave it to be understood that a regular military force was not among the necessities for which they meant to provide. They looked upon the army, notwithstanding its recent services, with that apprehension and jealousy which became an English House of Commons. They were still supporting it by monthly assessments of £70,000, and could gain no relief by the king's restoration till that charge came to an end. A bill therefore was sent up to the Lords before their adjournment in September, providing money for disbanding the land forces. This was done during the recess: the soldiers received their arrears with many fair words of praise, and the nation saw itself, with delight and thankfulness to the king, released from its heavy burdens and the

dread of servitude. Yet Charles had too much knowledge of foreign countries, where monarchy flourished in all its plenitude of sovereign power under the guardian sword of a standing army, to part readily with so favorite an instrument of kings.

Some of his counsellors, and especially the Duke of York, dissuaded him from disbanding the army, or at least advised his supplying its place by another. The unsettled state of the kingdom after so momentous a revolution, the dangerous audacity of the fanatical party, whose enterprises were the more to be guarded against because they were founded on no such calculation as reasonable men would form, and of which the insurrection of Venner in November, 1660, furnished an example, did undoubtedly appear a very plausible excuse for something more of a military protection to the government than yeomen of the guard and gentlemen pensioners. General Monk's regiment, called the Coldstream, and one other of horse, were accordingly retained by the king in his service; another was formed out of troops brought from Dunkirk; and thus began, under the name of guards, the present regular army of Great Britain. In 1662 these amounted to about 5000 men — a petty force according to our present notions or to the practice of other European monarchies in that age, yet sufficient to establish an alarming precedent, and to open a new source of contention between the supporters of power and those of freedom.

So little essential innovation had been effected by twenty years' interruption of the regular government in the common law or course of judicial proceedings, that, when the king and House of Lords were restored to their places, little more seemed to be requisite than a change of names. But what was true of the State could not be applied to the Church. The revolution there had gone much further, and the questions of restoration and compromise were far more difficult. . . .

### § 6. *Establishment of Anglican Predominance*

The new Parliament gave the first proofs of their disposition by voting that all their members should receive the sacrament on a certain day according to the rites of the Church of England, and that the solemn league and covenant should be burned by the common hangman. They excited still more serious alarm by an evident reluctance to confirm the late Act of Indemnity, which the king at the opening of the session had pressed upon their attention.





Those who had suffered the sequestrations and other losses of a vanquished party could not endure to abandon what they reckoned a just reparation. But Clarendon adhered with equal integrity and prudence to this fundamental principle of the Restoration; and after a strong message from the king on the subject, the Commons were content to let the bill pass with no new exceptions. They gave, indeed, some relief to the ruined cavaliers by voting £60,000 to be distributed among that class; but so inadequate a compensation did not assuage their discontent. . . .

No time was lost, as might be expected from the temper of the Commons, in replacing the throne on its constitutional basis after the rude encroachments of the Long Parliament. They declared that there was no legislative power in either or both houses without the king; that the league and covenant was unlawfully imposed; that the sole supreme command of the militia, and of all forces by sea and land, had ever been by the laws of England the undoubted right of the crown; that neither house of parliament could pretend to it, nor could lawfully levy any war offensive or defensive against his Majesty. These last words appeared to go to a dangerous length, and to sanction the suicidal doctrine of absolute non-resistance. They made the law of high-treason more strict during the king's life in pursuance of a precedent in the reign of Elizabeth. They restored the bishops to their seats in the House of Lords — a step which the last Parliament would never have been induced to take, but which met with little opposition from the present. The violence that had attended their exclusion seemed a sufficient motive for rescinding a statute so improperly obtained, even if the policy of maintaining the spiritual peers were somewhat doubtful. The remembrance of those tumultuous assemblages which had overawed their predecessors in the winter of 1641, and at other times, produced a law against disorderly petitions. This statute provides that no petition or address shall be presented to the king or either house of Parliament by more than ten persons; nor shall any one procure above twenty persons to consent or set their hands to any petition for alteration of matters established by law in Church or State, unless with the previous order of three justices of the county, or the major part of the grand jury.

Thus far the new Parliament might be said to have acted chiefly on a principle of repairing the breaches recently made in our constitution, and of reëstablishing the just boundaries of the executive power; nor would much objection have been offered to their measures had they gone no farther in the same course. The act

for regulating corporations is much more questionable, and displayed a determination to exclude a considerable portion of the community from their civil rights. It enjoined all magistrates and persons bearing offices of trust in corporations to swear that they believed it unlawful, on any pretence whatever, to take arms against the king, and that they abhorred the traitorous position of bearing arms by his authority against his person, or against those that are commissioned by him. They were also to renounce all obligation arising out of the oath called the solemn league and covenant; in case of refusal to be immediately removed from office. Those elected in future were, in addition to the same oaths, to have received the sacrament within one year before their election according to the rights of the English Church. These provisions struck at the heart of the Presbyterian party whose strength lay in the little oligarchies of corporate towns, which directly or indirectly returned to Parliament a very large proportion of its members. Yet it rarely happens that a political faction is crushed by the terrors of an oath. Many of the more rigid Presbyterians refused the conditions imposed by this act; but the majority found pretexts for qualifying themselves. . . .

A determination having been taken to admit of no extensive comprehension in religious matters, it was debated by the government whether to make a few alterations in the Liturgy, or to restore the ancient service in every particular. The former advice prevailed, though with no desire or expectation of conciliating any scrupulous persons by the amendments introduced. These were by no means numerous, and in some instances rather chosen in order to irritate and mock the opposite party than from any compliance with their prejudices. It is indeed very probable from the temper of the new Parliament that they would not have come into more tolerant and healing measures. When the Act of Uniformity was brought into the House of Lords, it was found not only to restore all the ceremonies and other matters to which objection had been taken, but to contain fresh clauses more intolerable than the rest to the Presbyterian clergy. One of these enacted that not only every beneficed minister, but fellow of a college, or even schoolmaster, should declare his unfeigned assent and consent to all and everything contained in the Book of Common Prayer. These words, however capable of being eluded and explained away, as such subscriptions always are, seemed to amount, in common use of language, to a complete approbation of an entire volume, such as a man of sense hardly gives to any





book, and which, at a time when scrupulous persons were with great difficulty endeavoring to reconcile themselves to submission, placed a new stumbling-block in their way, which, without abandoning their integrity, they found it impossible to surmount. . . .

### § 7. *Expulsion of Non-conforming Parsons*

The new Act of Uniformity succeeded to the utmost wishes of its promoters. It provided that every minister should, before the feast of St. Bartholomew, 1662, publicly declare his assent and consent to everything contained in the Book of Common Prayer, on pain of being *ipso facto* deprived of his benefice. When the day of St. Bartholomew came, about two thousand persons resigned their preferments rather than stain their consciences by compliance — an act to which the more liberal Anglicans, after the bitterness of immediate passions had passed away, have accorded that praise which is due to heroic virtue in an enemy. It may justly be said that the Episcopal clergy had set an example of similar magnanimity in refusing to take the covenant. Yet, as that was partly of a political nature, and those who were ejected for not taking it might hope to be restored through the success of the king's arms, I do not know that it was altogether so eminent an act of self-devotion as the Presbyterian clergy displayed on St. Bartholomew's day. Both of them afford striking contrasts to the pliancy of the English Church in the greater question of the preceding century, and bear witness to a remarkable integrity and consistency of principle. . . .

Some had believed, among whom Clarendon seems to have been, that all scruples of tender conscience in the Presbyterian clergy being faction and hypocrisy, they would submit very quietly to the law, when they found all their clamor unavailing to obtain a dispensation from it. The resignation of two thousand beneficed ministers at once, instead of extorting praise, rather inflamed the resentment of their bigoted enemies, especially when they perceived that a public and perpetual toleration of separate worship was favored by part of the court. Rumors of conspiracies and insurrections, sometimes false, but gaining credit from the notorious discontent both of the old Commonwealth's party, and of many who had never been on that side, were sedulously propagated, in order to keep up the animosity of Parliament against the ejected clergy; and these are recited as the pretext of an act passed in 1664 for suppressing seditious conventicles (the epithet being in this place wantonly

and unjustly insulting), which inflicted on all persons above the age of sixteen, present at any religious meeting in any other manner than is allowed by the practice of the Church of England, where five or more persons besides the household should be present, a penalty of three months' imprisonment for the first offence, of six for the second, and of seven years' transportation for the third, on conviction before a single justice of the peace. This act, says Clarendon, if it had been vigorously executed, would no doubt have produced a thorough reformation. Such is ever the language of the supporters of tyranny; when oppression does not succeed, it is because there has been too little of it. But those who suffered under this statute report very differently as to its vigorous execution. The jails were filled not only with ministers who had borne the brunt of former persecutions, but with the laity who attended them; and the hardship was the more grievous that, the act being ambiguously worded, its construction was left to a single magistrate, generally very adverse to the accused.

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# CHAPTER VIII

## JAMES II AND THE CATHOLIC REACTION

CHARLES II, though Catholic at heart and a firm believer in absolutism, as far as he was capable of any convictions, was determined not to lose his throne as his father had done. James II, however, did not possess the qualities of indifference and compromise which characterized his brother. He was not only Catholic, but he wanted to see the English nation converted to his faith. He was determined to allow no obstacle to prevent the realization of his cherished plans. He therefore took advantage of many points on which the royal power was not explicitly defined, and resorted to measures which really violated the spirit if not the letter of the law and custom of the constitution. The result was the awakening of an opposition which expelled him from his throne. The most brilliant account of this Revolution of 1688 is by the great Whig historian Macaulay, whose sympathies with the cause of the Revolution gave him a remarkable insight into the views of the leaders, but prevented his doing justice to both parties.

### § 1. *Undefined Royal Prerogatives*[1]

From his predecessors James had inherited two prerogatives, of which the limits had never been defined with strict accuracy, and which, if exerted without any limit, would of themselves have sufficed to overturn the whole polity of the State and of the Church. These were the dispensing power and the ecclesiastical supremacy. By means of the dispensing power, the king purposed to admit Roman Catholics, not merely to civil and military, but to spiritual, offices. By means of the ecclesiastical supremacy he hoped to make the Anglican clergy his instruments for the destruction of their own religion.

[1] Macaulay, *History of England*, chaps. vi–viii.

This scheme developed itself by degrees. It was not thought safe to begin by granting to the whole Roman Catholic body a dispensation from all statutes imposing penalties and tests. For nothing was more fully established than that such a dispensation was illegal. The Cabal had, in 1672, put forth a general Declaration of Indulgence. The Commons, as soon as they met, had protested against it. Charles the Second had ordered it to be cancelled in his presence, and had, both by his own mouth and by a written message, assured the houses that the step which had caused so much complaint should never be drawn into precedent. It would have been difficult to find in all the Inns of Court a barrister of reputation to argue in defence of a prerogative which the sovereign, seated on his throne in full Parliament, had solemnly renounced a few years before. But it was not quite so clear that the king might not, on special grounds, grant exemptions to individuals by name. The first object of James, therefore, was to obtain from the courts of common law an acknowledgment that, to this extent at least, he possessed the dispensing power.

### § 2. *Coercion of the Courts*

But though his pretensions were moderate when compared with those which he put forth a few months later, he soon found that he had against him almost the whole sense of Westminster Hall. Four of the judges gave him to understand that they could not, on this occasion, serve his purpose; and it is remarkable that all the four were violent Tories, and that among them were men who had accompanied Jeffreys on the Bloody Circuit, and who had been consenting to the death of Cornish and of Elizabeth Gaunt. Jones, the Chief-Justice of the Common Pleas, a man who had never before shrunk from any drudgery, however cruel or servile, now held in the royal closet language which might have become the lips of the purest magistrates in our history. He was plainly told that he must either give up his opinion or his place. "For my place," he answered, "I care little. I am old and worn out in the service of the crown; but I am mortified to find that your Majesty thinks me capable of giving a judgment which none but an ignorant or a dishonest man could give." "I am determined," said the king, "to have twelve judges who will be all of my mind as to this matter." "Your Majesty," answered Jones "may find twelve judges of your mind, but hardly twelve lawyers." He was dismissed, together with Montague, Chief Baron of the





Exchequer, and two puisne judges, Neville and Charlton. One of the new judges was Christopher Milton, younger brother of the great poet. Of Christopher little is known, except that in the time of the Civil War he had been a Royalist, and that he now, in his old age, leaned towards popery. It does not appear that he was ever formally reconciled to the Church of Rome; but he certainly had scruples about communicating with the Church of England, and had therefore a strong interest in supporting the dispensing power.

The king found his counsel as refractory as his judges. The first barrister who learned that he was expected to defend the dispensing power was the solicitor-general, Heneage Finch. He peremptorily refused, and was turned out of office on the following day. The attorney-general, Sawyer, was ordered to draw warrants authorizing members of the Church of Rome to hold benefices belonging to the Church of England. Sawyer had been deeply concerned in some of the harshest and most unjustifiable prosecutions of that age, and the Whigs abhorred him as a man stained with the blood of Russell and Sidney; but on this occasion he showed no want of honesty or of resolution. "Sir," said he, "this is not merely to dispense with a statute; it is to annul the whole statute law from the accession of Elizabeth to the present day. I dare not do it, and I implore your Majesty to consider whether such an attack upon the rights of the Church be in accordance with your late gracious promises." Sawyer would have been instantly dismissed, as Finch had been, if the government could have found a successor; but this was no easy matter. It was necessary, for the protection of the rights of the crown, that one at least of the crown lawyers should be a man of learning, ability, and experience, and no such man was willing to defend the dispensing power. The attorney-general was therefore permitted to retain his place during some months. Thomas Powis, an obscure barrister who had no qualification for high employment except servility, was appointed solicitor.

### § 3. *The Hales Case and Public Employment of Catholics*

The preliminary arrangements were now complete. There was a solicitor-general to argue for the dispensing power, and a bench of judges to decide in favor of it. The question was therefore speedily brought to a hearing. Sir Edward Hales, a gentleman of Kent, had been converted to popery in days when it was not safe





for any man of note openly to declare himself a Papist. He had kept his secret, and, when questioned, had affirmed that he was a Protestant with a solemnity which did little credit to his principles. When James had ascended the throne, disguise was no longer necessary. Sir Edward publicly apostatized, and was rewarded with the command of a regiment of foot. He had held his commission more than three months without taking the sacrament. He was therefore liable to a penalty of five hundred pounds, which an informer might recover by action of debt. A menial servant was employed to bring a suit for this sum in the Court of King's Bench. Sir Edward did not dispute the facts alleged against him, but pleaded that he had letters-patent authorizing him to hold his commission notwithstanding the Test Act. The plaintiff demurred, that is to say, admitted Sir Edward's plea to be true in fact, but denied that it was a sufficient answer. Thus was raised a simple issue of law to be decided by the court. A barrister, who was notoriously a tool of the government, appeared for the mock plaintiff and made some feeble objections to the defendent's plea. The new solicitor-general replied. The attorney-general took no part in the proceedings. Judgment was given by the Lord Chief-Justice, Sir Edward Herbert. He announced that he had submitted the question to all the twelve judges, and that, in the opinion of eleven of them, the king might lawfully dispense with penal statutes in particular cases, and for special reasons of grave importance. The single dissentient, Baron Street, was not removed from his place. He was a man of morals so bad that his own relations shrank from him, and that the Prince of Orange, at the time of the Revolution, was advised not to see him. The character of Street makes it impossible to believe that he would have been more scrupulous than his brethren. The character of James makes it impossible to believe that a refractory Baron of the Exchequer would have been permitted to retain his post. There can, therefore, be no reasonable doubt that the dissenting judge was, like the plaintiff and the plaintiff's council, acting collusively. It was important that there should be a great preponderance of authority in favor of the dispensing power; yet it was important that the bench, which had been carefully packed for the occasion, should appear to be independent. One judge, therefore, the least respectable of the twelve, was permitted, or more probably commanded, to give his voice against the prerogative.

The power which the courts of law had thus recognized was





not suffered to lie idle. Within a month after the decision of the King's Bench had been pronounced four Roman Catholic Lords were sworn of the Privy Council. Two of them, Powis and Bellasyse, were of the Moderate party, and probably took their seats with reluctance and with many sad forebodings. The other two, Arundell and Dover, had no such misgivings. . . .

### § 4. *Rapid Development of Catholicism*

The temper of the nation was indeed such as might well make the king hesitate. During some months discontent had been steadily and rapidly increasing. The celebration of the Roman Catholic worship had long been prohibited by act of Parliament. During several generations no Roman Catholic clergyman had dared to exhibit himself in any public place with the badges of his office. Against the regular clergy, and against the restless and subtle Jesuits by name, had been enacted a succession of rigorous statutes. Every Jesuit who set foot in this country was liable to be hanged, drawn, and quartered. A reward was offered for his detection. He was not allowed to take advantage of the general rule, that men are not bound to accuse themselves. Whoever was suspected of being a Jesuit might be interrogated, and, if he refused to answer, might be sent to prison for life. These laws, though they had not, except when there was supposed to be some peculiar danger, been strictly executed, and though they had never prevented Jesuits from resorting to England, had made disguise necessary.

But all disguise was now thrown off. Injudicious members of the king's Church, encouraged by him, took a pride in defying statutes which were still of undoubted validity, and feelings which had a stronger hold of the national mind than at any former period. Roman Catholic chapels rose all over the country. Cowls, girdles of ropes, and strings of beads constantly appeared in the streets, and astonished a population, the oldest of whom had never seen a conventual garb except on the stage. A convent arose at Clerkenwell, on the site of the ancient cloister of St. John. The Franciscans occupied a mansion in Lincoln's Inn Fields. The Carmelites were quartered in the city. A society of Benedictine monks was lodged in St. James's Palace. In the Savoy a spacious house, including a church and a school, was built for the Jesuits. The skill and care with which those fathers had, during several generations, conducted the education of youth, had

drawn forth reluctant praises from the wisest Protestants. Bacon had pronounced the mode of instruction followed in the Jesuit colleges to be the best yet known in the world, and had warmly expressed his regret that so admirable a system of intellectual and moral discipline should be employed on the side of error. It was not improbable that the new academy in the Savoy might, under royal patronage, prove a formidable rival to the great foundations of Eton, Westminster, and Winchester. Indeed, soon after the school was opened, the classes consisted of four hundred boys, about one-half of whom were Protestants. The Protestant pupils were not required to attend mass; but there could be no doubt that the influence of able preceptors, devoted to the Roman Catholic Church, and versed in all the arts which win the confidence and affection of youth, would make many converts.

These things produced great excitement among the populace, which is always more moved by what impresses the senses than by what is addressed to the reason. Thousands of rude and ignorant men, to whom the dispensing power and the Ecclesiastical Commission were words without a meaning, saw with dismay and indignation a Jesuit college rising on the banks of the Thames, friars in hoods and gowns walking in the Strand, and crowds of devotees pressing in at the doors of temples where homage was paid to graven images. Riots broke out in several parts of the country. At Coventry and Worcester the Roman Catholic worship was violently interrupted. At Bristol the rabble, countenanced, it was said, by the magistrates, exhibited a profane and indecent pageant, in which the Virgin Mary was represented by a buffoon, and in which a mock host was carried in procession. Soldiers were called out to disperse the mob. The mob, then and ever since one of the fiercest in the kingdom, resisted. Blows were exchanged, and serious hurts inflicted. The agitation was great in the capital, and greater in the city, properly so called, than at Westminster. For the people of Westminster had been accustomed to see among them the private chapels of Roman Catholic ambassadors; but the city had not, within living memory, been polluted by any idolatrous exhibition. Now, however, the resident of the Elector Palatine, encouraged by the king, fitted up a chapel in Lime Street.

The heads of the corporation, though men selected for office on account of their known Toryism, protested against this proceeding, which, as they said, the ablest gentlemen of the long robe regarded as illegal. The Lord Mayor was ordered to appear





before the Privy Council. "Take heed what you do," said the king; "obey me, and do not trouble yourself either about gentlemen of the long robe or gentlemen of the short robe." The Chancellor took up the word, and reprimanded the unfortunate magistrate with the genuine eloquence of the Old Bailey bar. The chapel was opened. All the neighborhood was soon in commotion. Great crowds assembled in Cheapside to attack the new mass house. The priests were insulted. A crucifix was taken out of the building and set up on the parish pump. The Lord Mayor came to quell the tumult, but was received with cries of "No wooden gods." The train-bands were ordered to disperse the crowd; but the train-bands shared in the popular feeling, and murmurs were heard from the ranks, "We cannot in conscience fight for popery." . . .

### § 5. *The Second Declaration of Indulgence*

On the twenty-seventh of April, 1688, the king put forth a second Declaration of Indulgence. In this paper he recited at length the Declaration of the preceding April. His past life, he said, ought to have convinced his people that he was not a person who could easily be induced to depart from any resolution which he had formed. But, as designing men had attempted to persuade the world that he might be prevailed on to give way in this matter, he thought it necessary to proclaim that his purpose was immutably fixed, that he was resolved to employ those only who were prepared to concur in his design, and that he had, in pursuance of that resolution, dismissed many of his disobedient servants from civil and military employments. He announced that he meant to hold a Parliament in November at the latest; and he exhorted his subjects to choose representatives who would assist him in the great work which he had undertaken.

This Declaration at first produced little sensation. It contained nothing new; and men wondered that the king should think it worth while to publish a solemn manifesto merely for the purpose of telling them that he had not changed his mind. Perhaps James was nettled by the indifference with which the announcement of his fixed resolution was received by the public, and thought that his dignity and authority would suffer unless he without delay did something novel and striking. On the fourth of May, accordingly, he made an order in council that his Declaration of the preceding week should be read, on two successive Sundays, at the time of

divine service, by the officiating ministers of all the churches and chapels of the kingdom. In London and in the suburbs the reading was to take place on the twentieth and twenty-seventh of May, in other parts of England on the third and tenth of June. The bishops were directed to distribute copies of the Declaration through their respective dioceses. . . .

The king's temper was arbitrary and severe. The proceedings of the Ecclesiastical Commission were as summary as those of a court-martial. Whoever ventured to resist might in a week be ejected from his parsonage, deprived of his whole income, pronounced incapable of holding any other spiritual preferment, and left to beg from door to door. If, indeed, the whole body offered a united opposition to the royal will, it was probable that even James would scarcely venture to punish ten thousand delinquents at once.

But there was not time to form an extensive combination. The order in Council was gazetted on the seventh of May. On the twentieth the Declaration was to be read in all the pulpits of London and the neighborhood. By no exertion was it possible in that age to ascertain within a fortnight the intentions of one-tenth part of the parochial ministers who were scattered over the kingdom. It was not easy to collect in so short a time the sense even of the episcopal order. It might also well be apprehended that, if the clergy refused to read the Declaration, the Protestant Dissenters would misinterpret the refusal, would despair of obtaining any toleration from the members of the Church of England, and would throw their whole weight into the scale of the court. . . .

At this conjuncture the Protestant Dissenters of London won for themselves a title to the lasting gratitude of their country. They had hitherto been reckoned by the government as part of its strength. A few of their most active and noisy preachers, corrupted by the favors of the court, had got up addresses in favor of the King's policy. Others, estranged by the recollection of many cruel wrongs both from the Church of England and from the House of Stuart, had seen with resentful pleasure the tyrannical prince and the tyrannical hierarchy separated by a bitter enmity, and bidding against each other for the help of sects lately persecuted and despised. But this feeling, however natural, had been indulged long enough.

The time had come when it was necessary to make a choice; and the Non-conformists of the city, with a noble spirit, arrayed themselves side by side with the members of the Church in defence





of the fundamental laws of the realm. Baxter, Bates, and Howe distinguished themselves by their efforts to bring about this coalition; but the generous enthusiasm which pervaded the whole Puritan body made the task easy. The zeal of the flocks outran that of the pastors. Those Presbyterian and Independent teachers who showed an inclination to take part with the king against the ecclesiastical establishment received distinct notice that, unless they changed their conduct, their congregations would neither hear them nor pay them. Alsop, who had flattered himself that he should be able to bring over a great body of his disciples to the royal side, found himself on a sudden an object of contempt and abhorrence to those who had lately revered him as their spiritual guide, sank into a deep melancholy, and hid himself from the public eye. Deputations waited on several of the London clergy, imploring them not to judge of the dissenting body from the servile adulation which had lately filled the *London Gazette*, and exhorting them, placed as they were in the van of this great fight, to play the men for the liberties of England and for the faith delivered to the saints. These assurances were received with joy and gratitude. Yet there was still much anxiety and much difference of opinion among those who had to decide whether, on Sunday the twentieth, they would or would not obey the king's command. The London clergy, then universally acknowledged to be the flower of their profession, held a meeting. Fifteen doctors of divinity were present. . . .

The general feeling of the assembly seemed to be that it was, on the whole, advisable to obey the Order in Council. The dispute began to wax warm, and might have produced fatal consequences, if it had not been brought to a close by the firmness and wisdom of Doctor Edward Fowler, Vicar of Saint Giles's, Cripplegate, one of a small but remarkable class of divines who united that love of civil liberty which belonged to the school of Calvin with the theology of the school of Arminius. Standing up, Fowler spoke thus: "I must be plain. The question is so simple that argument can throw no new light on it, and can only beget heat. Let every man say Yes or No. But I cannot consent to be bound by the vote of the majority. I shall be sorry to cause a breach of unity. But this Declaration I cannot in conscience read." Tillotson, Patrick, Sherlock, and Stillingfleet declared that they were of the same mind. The majority yielded to the authority of a minority so respectable. A resolution by which all present pledged themselves to one another not to read the Declaration was then drawn up. Patrick was the

first who set his hand to it; Fowler was the second. The paper was sent round the city, and was speedily subscribed by eighty-five incumbents.

### § 6. *The Protest of the Bishops*

Meanwhile several of the bishops were anxiously deliberating as to the course which they should take. On the twelfth of May a grave and learned company was assembled round the table of the primate at Lambeth. Compton, Bishop of London, Turner, Bishop of Ely, White, Bishop of Peterborough, and Tenison, Rector of Saint Martin's Parish, were among the guests. . . . The general opinion was that the Declaration ought not to be read. Letters were forthwith written to several of the most respectable prelates of the province of Canterbury, entreating them to come up without delay to London, and to strengthen the hands of their metropolitan at this conjuncture. As there was little doubt that these letters would be opened if they passed through the office in Lombard Street, they were sent by horsemen to the nearest country post-towns on the different roads. The Bishop of Winchester, whose loyalty had been so signally proved at Sedgemoor, though suffering from indisposition, resolved to set out in obedience to the summons, but found himself unable to bear the motion of a coach. The letter addressed to William Lloyd, Bishop of Norwich, was, in spite of all precautions, detained by a postmaster; and that prelate, inferior to none of his brethren in courage and zeal for the common cause of his order, did not reach London in time. His namesake, William Lloyd, Bishop of Saint Asaph, a pious, honest, and learned man, but of slender judgment, and half crazed by his persevering endeavors to extract from the Book of Daniel and from the Revelation some information about the Pope and the king of France, hastened to the capital, and arrived on the sixteenth. On the following day came the excellent Ken, Bishop of Bath and Wells, Lake, Bishop of Chichester, and Sir John Trelawney, Bishop of Bristol, a baronet of an old and honorable Cornish family.

On the eighteenth a meeting of prelates and of other eminent divines was held at Lambeth. Tillotson, Tenison, Stillingfleet, Patrick, and Sherlock were present. Prayers were solemnly read before the consultation began. After long deliberation, a petition embodying the general sense was written by the Archbishop with his own hand. It was not drawn up with much felicity





of style. Indeed, the cumbrous and inelegant structure of the sentences brought on Sancroft some raillery, which he bore with less patience than he showed under much heavier trials. But in substance nothing could be more skilfully framed than this memorable document. All disloyalty, all intolerance, was earnestly disclaimed. The king was assured that the Church was still, as she had ever been, faithful to the throne. He was assured also that the bishops would, in proper place and time, as Lords of Parliament and members of the Upper House of Convocation, show that they by no means wanted tenderness for the conscientious scruples of Dissenters. But Parliament had, both in the late and in the present reign, pronounced that the sovereign was not constitutionally competent to dispense with statutes in matters ecclesiastical. The Declaration was therefore illegal; and the petitioners could not, in prudence, honor, or conscience, be parties to the solemn publishing of an illegal Declaration in the house of God, and during the time of divine service.

This paper was signed by the Archbishop and by six of his suffragans, Lloyd of Saint Asaph, Turner of Ely, Lake of Chichester, Ken of Bath and Wells, White of Peterborough, and Trelawney of Bristol. The Bishop of London, being under suspension, did not sign.

It was now late on Friday evening; and on Sunday morning the Declaration was to be read in the churches of London. It was necessary to put the paper into the king's hands without delay. The six bishops crossed the river to Whitehall. The Archbishop, who had long been forbidden the court, did not accompany them. Lloyd, leaving his five brethren at the house of Lord Dartmouth in the vicinity of the palace, went to Sunderland, and begged that minister to read the petition, and to ascertain when the king would be willing to receive it. Sunderland, afraid of compromising himself, refused to look at the paper, but went immediately to the royal closet. James directed that the bishops should be admitted. He had heard from his tool Cartwright that they were disposed to obey the royal mandate, but that they wished for some little modifications in form, and that they meant to present a humble request to that effect. His majesty was therefore in a very good humor. When they knelt before him, he graciously told them to rise, took the paper from Lloyd, and said, "This is my Lord of Canterbury's hand." "Yes, sir, his own hand," was the answer. James read the petition; he folded it up, and his countenance grew dark. "This," he said, "is a great surprise to me. I did

not expect this from your Church, especially from some of you. This is a standard of rebellion."

The bishops broke out into passionate professions of loyalty; but the king, as usual, repeated the same words over and over. "I tell you this is a standard of rebellion." "Rebellion!" cried Trelawney, falling on his knees. "For God's sake, sir, do not say so hard a thing of us. No Trelawney can be a rebel. Remember that my family has fought for the crown. Remember how I served your majesty when Monmouth was in the West." "We put down the last rebellion," said Lake: "we shall not raise another." "We rebel!" exclaimed Turner; "we are ready to die at your Majesty's feet." "Sir," said Ken, in a more manly tone, "I hope that you will grant to us that liberty of conscience which you grant to all mankind."

Still James went on. "This is rebellion. This is a standard of rebellion. Did ever a good churchman question the dispensing power before? Have not some of you preached for it and written for it? It is a standard of rebellion. I will have my Declaration published." "We have two duties to perform," answered Ken, "our duty to God, and our duty to your Majesty. We honor you; but we fear God." "Have I deserved this?" said the king, more and more angry, "I who have been such a friend to your Church? I did not expect this from some of you. I will be obeyed. My Declaration shall be published. You are trumpeters of sedition. What do you do here? Go to your dioceses; and see that I am obeyed. I will keep this paper. I will not part with it, I will remember you that have signed it." "God's will be done," said Ken. "God has given me the dispensing power," said the king, "and I will maintain it. I will tell you that there are still seven thousand of your Church who have not bowed the knee to Baal." The bishops respectfully retired. That very evening the document which they had put into the hands of the king appeared word for word in print, was laid on the tables of all the coffee-houses, and was cried about the streets. Everywhere the people rose from their beds, and came out to stop the hawkers. It was said that the printer cleared a thousand pounds in a few hours by this penny broadside. This is probably an exaggeration; but it is an exaggeration which proves that the sale was enormous. How the petition got abroad is still a mystery. . . .

In the City and Liberties of London were about a hundred parish churches. In only four of these was the Order in Council obeyed. At Saint Gregory's the Declaration was read by a divine





of the name of Martin. As soon as he uttered the first words, the whole congregation rose and withdrew. At Saint Matthew's, in Friday Street, a wretch named Timothy Hall, who had disgraced his gown by acting as broker for the Duchess of Portsmouth in the sale of pardons, and who now had hopes of obtaining the vacant bishopric of Oxford, was in like manner left alone in his church. At Sergeant's Inn, in Chancery Lane, the clerk pretended that he had forgotten to bring a copy; and the Chief Justice of the King's Bench, who had attended in order to see that the royal mandate was obeyed, was forced to content himself with this excuse. Samuel Wesley, the father of John and Charles Wesley, a curate in London, took for his text that day the noble answer of the three Jews to the Chaldean tyrant: "Be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou hast set up." Even in the chapel of Saint James's Palace the officiating minister had the courage to disobey the order. The Westminster boys long remembered what took place that day in the Abbey. Sprat, Bishop of Rochester, officiated there as dean. As soon as he began to read the Declaration, murmurs and the noise of people crowding out of the choir drowned his voice. He trembled so violently that men saw the paper shake in his hand. Long before he had finished, the place was deserted by all but those whose situation made it necessary for them to remain. . . .

Another week of anxiety and agitation passed away. Sunday came again. Again the churches of the capital were thronged by hundreds of thousands. The Declaration was read nowhere except at the very few places where it had been read the week before. The minister who had officiated at the chapel in Saint James's Palace had been turned out of his situation; a more obsequious divine appeared with the paper in his hand, but his agitation was so great that he could not articulate. In truth, the feeling of the whole nation had now become such as none but the very best and noblest, or the very worst and basest, of mankind could without much discomposure encounter.

### Bibliographical Note to Chapters VIII and IX

Traill, *William III.* Seeley, *Growth of British Policy*, Vol. II, pp. 250 ff. Lecky, *History of England in the Eighteenth Century*, Vol. I, chap. i. Ranke, *History of England*, Vol. IV, 209 ff. Hallam, *Constitutional History*, Vol. II, chaps. xiv. and xv. The documents are to be found in Robertson, *Select Statutes, Cases, and Documents.*

# CHAPTER IX

## THE WHIG REVOLUTION AND SETTLEMENT

WHEN the actions of James II transcended the bounds of national patience, a self-constituted committee of both Whigs and Tories invited William, Prince of Orange, to come over with an armed force to defend what they regarded as their liberties. William, who wanted to draw the country into his continental schemes, accepted the invitation, and in November, 1688, landed in England. Deserted by his supporters, James could not make even a semblance of resistance, and consequently fled to France. In January, 1689, a convention parliament called by William declared that the throne was vacant and offered the crown to him and Mary.

### § 1. *Discussion of Constitutional Principles*[1]

It was now known to whom the crown would be given. On what conditions it should be given still remained to be decided. The Commons had appointed a committee to consider what steps it might be advisable to take, in order to secure law and liberty against the aggressions of future sovereigns; and the committee had made a report. This report recommended, first, that those great principles of the constitution which had been violated by the dethroned king should be solemnly asserted; and, secondly, that many new laws should be enacted, for the purpose of curbing the prerogative and purifying the administration of justice. Most of the suggestions of the committee were excellent; but it was utterly impossible that the Houses could, in a month, or even a year, deal properly with matters so numerous, so various, and so important. It was proposed, among other things, that the militia should be remodelled, that the power which the sovereign possessed of proroguing and dissolving Parliaments should be restricted; that the

[1] Macaulay, *History of England*, chap. x.

duration of Parliaments should be limited; that the royal pardon should no longer be pleadable to a parliamentary impeachment; that toleration should be granted to Protestant Dissenters; that the crime of high treason should be more precisely defined; that trials for high treason should be conducted in á manner more favorable to innocence; that the judges should hold their places for life; that the mode of appointing sheriffs should be altered; that juries should be nominated in such a way as might exclude partiality and corruption; that the practice of filing criminal informations in the King's Bench should be abolished; that the Court of Chancery should be reformed; that the fees of public functionaries should be regulated; and that the law of quo warranto should be amended. It was evident that cautious and deliberate legislation on these subjects must be the work of more than one laborious session; and it was equally evident that hasty and crude legislation on subjects so grave could not but produce new grievances, worse than those which it might remove. If the committee meant to give a list of the reforms which ought to be accomplished before the throne was filled, the list was absurdly long. If, on the other hand, the committee meant to give a list of all the reforms which the legislature would do well to make in proper season, the list was strangely imperfect. Indeed, as soon as the report had been read, member after member rose to suggest some addition. It was moved and carried that the selling of offices should be prohibited, that the Habeas Corpus Act should be made more efficient, and that the law of mandamus be revised. One gentleman fell on the chimneymen; another on the excisemen; and the House resolved that the malpractices of both chimneymen and excisemen should be restrained. . . .

The House was greatly perplexed. Some orators vehemently said that too much time had been already lost, and that the government ought to be settled without the delay of a day. Society was unquiet; trade was languishing; the English colony in Ireland was in imminent danger of perishing; a foreign war was impending; the exiled king might, in a few weeks, be at Dublin with a French army, and from Dublin he might soon cross to Chester. Was it not insanity, at such a crisis, to leave the throne unfilled, and, while the very existence of Parliaments was in jeopardy, to waste time in debating whether Parliaments should be prorogued by the sovereign or by themselves? On the other side it was asked whether the Convention could think that it had fulfilled its mission by merely pulling down one prince and putting up another.





Surely now or never was the time to secure public liberty by such fences as might effectually prevent the encroachments of prerogative. There was doubtless great weight in what was urged on both sides. The able chiefs of the Whig party, among whom Somers was fast rising to ascendency, proposed a middle course. The House had, they said, two objects in view, which ought to be kept distinct. One object was to secure the old polity of the realm against illegal attacks; the other was to improve that polity by legal reforms. The former object might be attained by solemnly putting on record, in the resolution which called the new sovereigns to the throne, the claim of the English nation to its ancient franchises, so that the king might hold his crown, and the people their privileges, by one and the same title-deed. The latter object would require a whole volume of elaborate statutes. The former object might be attained in a day; the latter, scarcely in five years. As to the former object, all parties were agreed; as to the latter, there were innumerable varieties of opinion. No member of either House would hesitate for a moment to vote that the king could not levy taxes without the consent of Parliament; but it would be hardly possible to frame any new law of procedure in cases of high treason which would not give rise to a long debate, and be condemned by some persons as unjust to the prisoner, and by others as unjust to the crown. The business of an extraordinary convention of the Estates of the Realm was not to do the ordinary work of Parliaments, to regulate the fees of masters in chancery, and to provide against the exactions of gaugers, but to put right the great machine of government. When this had been done, it would be time to inquire what improvement our institutions needed; nor would anything be risked by delay; for no sovereign who reigned merely by the choice of the nation could long refuse his assent to any improvement which the nation, speaking through its representatives, demanded.

### § 2. *Formulation of the Declaration of Right*

On these grounds the Commons wisely determined to postpone all reforms till the ancient constitution of the kingdom should have been restored in all its parts, and forthwith to fill the throne without imposing on William and Mary any other obligation than that of governing according to the existing laws of England. In order that the questions which had been in dispute between the Stuarts and the nation might never again be stirred, it was deter-





mined that the instrument by which the Prince and Princess of Orange were called to the throne, and by which the order of succession was settled, should set forth, in the most distinct and solemn manner, the fundamental principles of the constitution. This instrument, known by the name of the Declaration of Right, was prepared by a committee, of which Somers was chairman. The fact that the low-born young barrister was appointed to so honorable and important a post in a Parliament filled with able and experienced men, only ten days after he had spoken in the House of Commons for the first time, sufficiently proves the superiority of his abilities. In a few hours the Declaration was framed and approved by the Commons. The Lords assented to it with some amendments of no great importance.

The Declaration began by recapitulating the crimes and errors which had made a revolution necessary. James had invaded the province of the legislature; had treated modest petitioning as a crime; had oppressed the Church by means of an illegal tribunal; had, without the consent of Parliament, levied taxes and maintained a standing army in time of peace; had violated the freedom of election, and perverted the cause of justice. Proceedings which could lawfully be questioned only in Parliament had been made the subjects of prosecution in the King's Bench. Partial and corrupt juries had been returned; excessive bail had been required from prisoners; excessive fines had been imposed; barbarous and unusual punishments had been inflicted; the estates of accused persons had been granted away before conviction. He, by whose authority these things had been done, had abdicated the government. The Prince of Orange, whom God had made the glorious instrument of delivering the nation from superstition and tyranny, had invited the Estates of the Realm to meet and to take counsel together for the securing of religion, of law, and of freedom. The Lords and Commons, having deliberated, had resolved that they would first, after the example of their ancestors, assert the ancient rights and liberties of England. Therefore it was declared that the dispensing power, as lately assumed and exercised, had no legal existence; that, without grant of Parliament, no money could be exacted by the sovereign from the subject; that, without consent of Parliament, no standing army could be kept up in time of peace. The right of subjects to petition, the right of electors to choose representatives freely, the right of the legislature to freedom of debate, the right of the nation to a pure and merciful administration of justice according to the spirit of our mild laws, were solemnly

affirmed. All these things, the Commons claimed, as the undoubted inheritance of Englishmen. Having thus vindicated the principles of the constitution, the Lords and Commons, in the entire confidence that the deliverer would hold sacred the laws and liberties which he had saved, resolved that William and Mary, Prince and Princess of Orange, should be declared king and queen of England for their joint and separate lives, and that during their joint lives, the administration of the government should be in the Prince alone. After them the crown was settled on the posterity of Mary, then on Anne and her posterity, and then on the posterity of William. . . .

### § 3. *William and Mary Proclaimed*

On the morning of Wednesday, the thirteenth of February, the court of Whitehall and all the neighboring streets were filled with gazers. The magnificent banqueting house, the masterpiece of Inigo, embellished by masterpieces of Rubens, had been prepared for a great ceremony. The walls were lined by the yeomen of the guard. Near the northern door, on the right hand, a large number of Peers had assembled. On the left were the Commons with their Speaker, attended by the mace. The southern door opened; and the Prince and Princess of Orange, side by side, entered, and took their place under the canopy of state.

Both Houses approached, bowing low. William and Mary advanced a few steps. Halifax on the right, and Powle on the left, stood forth; and Halifax spoke. The Convention, he said, had agreed to a resolution which he prayed their Highnesses to hear. They signified their assent; and the clerk of the House of Lords read, in a loud voice, the Declaration of Right. When he had concluded, Halifax, in the name of all the Estates of the Realm, requested the prince and princess to accept the crown.

William, in his own name and in that of his wife, answered that the crown was, in their estimation, the more valuable because it was presented to them as a token of the confidence of the nation. "We thankfully accept," he said, "what you have offered us." Then, for himself, he assured them that the laws of England, which he had once already vindicated, should be the rules of his conduct, that it should be his study to promote the welfare of the kingdom, and that, as to the means of doing so, he should constantly recur to the advice of the Houses, and should be disposed to trust their judgment rather than his own. These words were





received with a shout of joy which was heard in the streets below and was instantly answered by huzzas from many thousands of voices. The Lords and Commons then reverently retired from the banqueting house and went in procession to the great gate of Whitehall, where the heralds and pursuivants were waiting in their gorgeous tabards. All the space as far as Charing Cross was one sea of heads. The kettledrums struck up; the trumpets pealed; and Garter king at arms, in a loud voice, proclaimed the Prince and Princess of Orange king and queen of England, charged all Englishmen to bear, from that moment, true allegiance to the new sovereigns, and besought God, who had already wrought so signal a deliverance for our Church and nation, to bless William and Mary with a long and happy reign.

# PART VI

# THE EXPANSION OF ENGLAND

## CHAPTER I

### MOTIVES FOR COLONIZATION

At the opening of the sixteenth century, while the Portuguese were enriching themselves by the trade of the East, and the Spaniards were carving out new dominions in Mexico and Peru, it looked as if England was destined to be a small insular power. But it was not to be so, for within three or four generations, English ships were in every sea and Englishmen were embarking on commercial and colonial enterprises which were in time to outrival those of every other nation. As a result of this, the international politics of Europe for the last three centuries can be understood solely in the light of the economic interests engendered in the race for markets and territorial dominion. English activities spread to the four corners of the earth, and within England interests and policies were developed which transformed that country from a feudal into an industrial state. It therefore becomes imperative that one should study the industrial and commercial forces which have been so predominant in the modern age. The fullest and most scholarly account of these great interests is to be found in Dr. Cunningham's *Growth of English Industry and Commerce*, from which this analysis of early motives for colonization is taken.

### § 1. *Questionable Advantages of Colonization* [1]

Much had been done, before the seventeenth century opened, in developing the maritime power of England, but the process

[1] Cunningham, *Growth of English Industry and Commerce* (1904), Vol. II, Part I, pp. 331 ff. By permission of Dr. Cunningham and the Cambridge University Press.

distant lands had hardly begun. The foundations
al empire were laid during the reigns of the Stuarts.
ion of James I, Englishmen had not established their
r in Asia, Africa, or the American continent. Their
ewfoundland, with a share in the fisheries off its coast,
heir only sphere of influence in distant regions ; for
ts to plant in Virginia had not so far been crowned
. But within ninety years there was a marvellous
the Peace of Ryswick, England was secure in the
f more or less extensive territories in Africa, in
n South America. The East India Company and
y Company had several valuable factories for trade,
lena, the Bahamas, Bermudas, Jamaica, and other
islands had also been acquired. There is no side
life in which the progress during this period was
s in colonization; it is the new and characteristic
of this century to the development of England's
tness.

been much discussion at various times as to the benefit
es confer on the mother country; Whigs in the eigh-
he Manchester School in the nineteenth century, were
sparage them as a mere encumbrance, and would not

little benefit from the richest lands of the New World, what advantage was there in spreading over the less coveted regions which she had left untenanted? There were, however, various motives, political, religious, and economic, which combined to induce undertakers and emigrants to engage in colonial enterprise, and influenced the government to view it with favor.

### § 2. *Political Aims in Colonial Operations*

Political aims were obviously operating in the various schemes of plantation which were floated during the reign of James I. The task was undertaken in Ireland, with the hope of introducing some sort of stable government into that unhappy country, where the crown had entirely failed to establish effective authority over the native population. The statesmen of the day came to the conclusion that the only hope of reducing the island to order lay in abandoning the attempt to adapt Irish institutions to the purposes of government, and in seriously attempting to create a new system. They came to the conclusion that this could be best accomplished by settling it with Englishmen, who would hold the land on some secure form of tenure, and would maintain their own language and laws uncontaminated by contact with Irish neighbors.

It was necessary to deport many septs in order to give this scheme a trial, and only to admit a small portion of the native population. Sir Arthur Chichester and Sir John Davies hoped that by promoting immigration they might diffuse a respect for the authority of the crown in all parts of the island, and secure the presence of men on whose help they could rely for the various purposes of local government. Under James I and Charles I the settlements had a highly military character, as it was not merely necessary for the colonists to be able to hold their own against Irish raids, but also to be ready to defend the country, in the not improbable event of a Spanish invasion. From the time of Cromwell there was less need for fortifications and strongholds; he subjugated the island so entirely that English law and language became dominant, and material progress on English lines seemed possible. The native Irish were collected in Galway, between the Shannon and an inhospitable coast, where they could do little to assist the Spaniards or French in any attack they might make. In the early part of the seventeenth century, plantation was necessary as a step towards consolidating the political and administrative system of the British Isles. Immigration to Ireland was encouraged, with the object





of improving the efficiency of government in an island that had long formed part of the dominions of the crown.

Political aims were also kept in view in all the schemes for colonizing beyond the Atlantic. It was hoped that these plantations would tend to restrict the overweening power of Spain in the New World, and might even serve as a basis for attacking it. Deep-seated hostility to the Spanish type of civilization was combined in the minds of many Englishmen with dread at finding so much wealth and power concentrating in a single monarchy. The sense of antagonism to the Spanish system first awakened in the minds of Englishmen a consciousness of their duty and destiny to plant free institutions in the lands beyond the sea. Till the seventeenth century no serious effort had been made to Anglicize Ireland; Englishmen had been satisfied to live their own life in their own island. The discovery of America, and the development of maritime power under Elizabeth, had, however, provided an opportunity for diffusing English civilization in the New World. The men of the seventeenth century threw themselves eagerly into the task. England recognized and accepted her vocation.

### § 3. *The Religious Motive in Colonization*

The inner reasons for the antagonism to Spain, which had so much to do with shaping the colonial ambitions of Englishmen, were rather religious than political. The rule of the most Catholic majesty, with the scope it gave for the Inquisition, was abhorrent to Protestants. Interference in America was a defiance of the authority claimed by the pope to partition out the newly discovered lands between Portugal and Spain. The planting of a New England across the seas was an idea that appealed strongly to men of a religious temperament, as well as to those who were moved by considerations of political expediency. Religious and pecuniary motives had been intimately blended in the Crusades, and in this respect English colonization resembled them at the outset.

The plantation of Virginia was regarded by Hakluyt and some other men, who formed a London company with this object in 1606, as not only a commercial but also a missionary enterprise. They set about their adventure in the hope that it would "hereafter tend to the glory of his Divine Majesty, in propagating of Christian religion, to such people as yet live in darkness and miserable ignorance of the true knowledge and worship of God, and

may in time bring the infidels and savages living in those parts to human civility, and to a settled and quiet government." The Company endeavored to be careful in the selection of the men who were to emigrate and to refuse "idle and wicked persons such as shame or fear compels into this action, and such as are the weeds and rankness of this land"; they issued a true and sincere declaration to show what settlers they would accept, both as regards religion and conversation, and faculties, arts, and trades. They also made careful provision for the maintenance of the religious habits they prized so highly; churches were built with such elaboration as their means allowed, and the practice of attending the daily services there was carefully enforced. The whole work of colonization was treated as an enterprise in which it was a work of piety to engage, and collections were made in parish churches for the college that was planned, for English and Indians, at Henrico. The work continued despite many difficulties of every kind. Notwithstanding the efforts of the Company, the colony had been the refuge of a certain number of dissolute adventurers from the first; there had been much difficulty in keeping them in order, and in preserving friendly relations with the natives, while there had been many quarrels among the officials. On the whole, the colony prospered more in its material life than as a missionary enterprise; but it was not in a very flourishing condition at the close of King James' reign.

The religious impulse was also strongly at work in the first settlement of New England, not merely as affecting the spirit in which the enterprise was planned, but also as affording the main motive of those who actually emigrated. The Pilgrim Fathers were not much concerned in planting the existing English type of Christian civilization in the New World; but they desired to secure the opportunity of founding a society for themselves which should be thoroughly scriptural in character; they hoped that this would serve as a bright example to the rest of mankind. They established a very strict ecclesiastical discipline, but one which was entirely unlike the system they had found so galling in England. Under their scheme temporal privileges were dependent on church membership. "Most of the persons at New England are not admitted of their Church and therefore are not freemen; and when they come to be tried there, be it for life or limb, name or estate, or whatsoever, they must be tried and judged too by those of the Church, who are in a sort their adversaries." The enthusiasts for Theocracy sought out witches and banished Antinomians;

they even expelled and shipped off two members of the council who were in favor of using the Prayer Book.

In a community of men of this type there was much intense individual earnestness, but little sense of corporate duty to their neighbors, except in the way of furnishing them with a model to copy. Though they had traded with the Indians, they had made no serious efforts to civilize them, and had been careful to keep them at arm's length. The war of extermination, waged against the Pequod nation, alarmed all the neighboring tribes; and some of the colonies found it wise, in 1643, for their own security, to consolidate themselves into "The United Colonies of New England." Massachusetts, Plymouth, Connecticut, and New Haven were the first members of this union. It was the beginning of that federation which has proved such a convenient system for governing a growing nation. Both in the nature of the impulse which gave them birth, and in the character of the settlements themselves, there is a marked contrast between the history of the Northern and Southern colonies on the American coast.

Religious convictions of different kinds exercised a considerable influence in connection with the planting of other English settlements in North America. Maryland was taken in hand by Sir George Calvert, a Romanist, in 1632; through the personal connections of the proprietor, this territory became the resort of such of his co-religionists as emigrated. It was a district where English Romanists obtained toleration, till the aggressive action of the Jesuits called forth the inevitable reaction. Liberty of conscience was adopted, as a matter of conviction, by Roger Williams at Rhode Island, the settlement which he founded in 1636, after he had been obliged to withdraw from New England, and a similar course was pursued by the Quakers in West New Jersey and Pennsylvania. No serious effort was made to enforce religious uniformity after the Restoration, and the principle of civil toleration was formulated, on grounds of expediency, in the *Constitutions* which Locke drew up for Carolina. He hoped that peace might be maintained among the diversity of opinions, "and that Jews, heathen and other dissenters from the Christian religion might not be scared away from the new colony." When the Puritan Theocracy succumbed before the storm which was raised by the trials of witches in New England, there was no longer any effective obstacle to the diffusion of Whig principles in regard to religious liberty. They found a congenial soil, and have so deeply impregnated American life and thought that there is some excuse for the

mistake of regarding them as an original element in its composition.

### § 4. *Colonies as Sources of Gain*

Religious motives had much to do in shaping the character of particular settlements, but the main impulse in the work of colonization was economic. The plantations offered a field for the profitable investment of capital. While many of the London merchants were eager to establish themselves on English soil, others were ready to develop colonial resources, and to promote the cultivation of products, such as tobacco and sugar, which were in demand in European lands. The development of the Southern colonies and the West Indian Islands was promoted by moneyed men in England, who directed the energies of the planters into raising commodities for export. These traders were not specially concerned to foster communities which should be self-sufficing; they preferred that the planters should manage their estates with a view to the requirements of outside markets. As a consequence, there was little subsistence farming in these regions. The land was mostly held in large estates by men who carried on their business, either with their own capital or through the help of the credit extended to them by the merchants who were interested in the trade. The course which these London capitalists pursued did not always commend itself to the government; King James, while he sympathized with their enterprise, was somewhat afraid of pushing it too vigorously, and involving himself in a dispute with Spain. Charles I was eager for the prosperity of Virginia, and was anxious that the colony should at least provide its own food supply; he feared that the future of the territory was being sacrificed to the immediate gain of the planters. It was clear, however, that the development of these settlements was of advantage to the realm, and successive commissions gave careful attention to their affairs. For one thing, the plantations served to supplement the resources of the realm, and to furnish supplies of commodities which had hitherto been procured from abroad, so as to diminish the commercial indebtedness of the country and to influence the balance of trade in our favor. Again, the trade with the colonies opened up a field for the employment of our shipping; and efforts were made, both by the crown and Parliament, to restrict this newly established line of intercourse to English vessels, in the interest of the maritime power of the country. After the





Restoration, when the plantations were firmly established, a third economic advantage to the mother country came more and more clearly into view. The colonists demanded considerable quantities of European goods, and the progress of the settlements opened a larger market, the advantage of which English manufacturers endeavored to retain for themselves. On these various grounds English moneyed men were inclined to promote the plantation of new areas, and the English governments were ready to approve of the undertaking.

### § 5. *Colonies as Homes for Englishmen*

There must also have been a very large class who looked eagerly to the plantations in the hope of finding a sphere where they could engage, as independent men, in rural occupations. They may have had little capital of their own, but they were confident that if they obtained a start, they could make a living by their labor. There is reason to believe that the material prosperity, and the comparative peace, which England enjoyed during the Elizabethan and Jacobean periods, had resulted in a considerable increase of population. The growth of trade afforded openings for her younger sons of country gentlemen; but there must have been a large number of young men who greatly preferred an outdoor life, and who had difficulty in raising the premium that was required in order to be apprenticed to any branch of commerce. The fact that the competition for farms was so keen, is an incidental proof that there were a number of men who desired to follow this avocation; and if they had no opportunity at home, they would be ready to look for one abroad. Such men would be prepared to devote their own labor to the arduous work of clearing and tilling the ground for a livelihood; they desired to have a holding which they could work on their own account. Those plantations, which did not raise suitable products for export, offered a poor prospect of profit to the capitalists, but they would attract the classes of the community who were prepared to engage in farming for subsistence. It was almost inevitable that the colonies which were suitable for the growth of cereals should be settled with small homesteads, and not with large plantations managed by men who were catering for distant markets.

There have been many periods of English history when the government would have looked askance on schemes for drawing off large numbers of adult men to distant countries, where they could

not be called upon to play a personal part in defending England against invaders. More pressing anxiety was felt in the seventeenth century as to the best means of utilizing the able-bodied population in times of peace; and the government was quite prepared to give active assistance in promoting emigration. The statute of 1563 had doubtless done much to bring about the absorption of vagrants in industrial pursuits; but, despite the excellence of the London system for dealing with the poor, there appears to have been a considerable body of the unemployed in the city during the earlier part of the reign of James I. Among the motives and reasons which the king urged with the view of inducing the city to promote the Ulster Plantations it was pointed out that, if a body of the inhabitants were to hive off from London to Derry, the evils of overcrowding would be reduced, and there would neither be the same risk of infection nor as great a pressure of competition. The city was not easily induced to take active steps in response to the invitation. In the subsequent story we hear more of the king's endeavors to obtain contributions in money than of any great success in securing emigrants from London.

The city merchants were much more keenly alive to the advantage of developing trade, by planting in Virginia, than to the wisdom of schemes for prosecuting subsistence farming in the north of Ireland. The colonists, who were managing large estates and raising tobacco for export, were in constant need of labor; the Virginia Company and, after its dissolution, the agents of the planters, were willing to pay a good price for servants of every class; a large business sprang up, both at London and Bristol, in the shipment of laborers to the plantations.

There can be no doubt that a preference would be given to persons who had been brought up in the country and were accustomed to out-of-door employment. The young and active men in any parish, who saw little prospect of getting a holding of their own, would possibly feel that they could better themselves by emigration, though it is not probable that many adult servants in husbandry had either the inclination or the opportunity to go so far afield. There was more chance of drawing on the surplus population of the towns, and on those artisans who were thrown out of work by the fluctuations of their trade. It has already been pointed out that the arrangements which were made for the relief of the poor, prove how very easily the well-doing and industrious persons of this class might be reduced to destitution; the rigidity of the Elizabethan system, which told alike against change of residence

and change of occupation, must have put great obstacles in the way of any man obtaining employment when once he was thrown out. Recruits could also be obtained from less desirable elements of the population, as there was a constant desire on the part of the judges and the government to mitigate the severity of our penal code, and to inflict sentences of transportation in many cases where the penalty of death had been incurred. The colonists did their best to protect themselves against the intrusion of criminal elements, as the Virginia Company had done in its day. They insisted that each emigrant should be provided with a guarantee of character and respectability; but these regulations could not be maintained in the face of the great demand for labor.

### § 6. *Transportation of Irish and Servants*

The openings afforded by the colonies must have done much to relieve the country from the after-effects of the disturbances caused by the Civil War. It is in the case of Ireland that we get the fullest evidence; Cromwell's campaign was ruthless enough; and those of the garrison at Drogheda, who escaped with their lives, were transported to the Barbadoes. The scheme in which Parliament then engaged, for the wholesale planting of Ireland by Cromwell's soldiers, was an ingenious endeavor to get rid at once of a political danger and of the arrears of pay. It could not be carried out, however, until a wholesale deportation of the existing population had been effected, and numbers of them seem to have been compulsory immigrants to the plantations. Similar measures were taken with regard to the Royalist prisoners after the battle of Worcester, and the possibility of getting rid of restive or dangerous elements in the population must have contributed immensely to the establishment of civil order once more.

When the supply of prisoners and conquered persons fell off, however, there were no legitimate means of keeping up the stream of immigration or meeting the requirements of the planters, and a systematic practice of kidnapping sprang up, by which large numbers of persons were spirited away to work as servants in the colonies. The extent to which this shameful traffic was carried on is very remarkable, and interesting evidence about it is afforded by the mention of occasional and unsuccessful attempts to put it down. In 1660 John Clarke petitioned for letters patent empowering him to keep a register office, to which all servants and children might be brought before being transported to Virginia

and the Barbadoes, so as to prevent the abuses of forcible transportation of persons without their own or their parents' consent. A similar proposal was made in 1664, and the complaints of merchants, planters, and masters of ships, as well as of the Lord Mayor and Aldermen of London, show how greatly some such institution was required.



# CHAPTER II

## DRAKE AND THE CIRCUMNAVIGATION

AMONG the many Elizabethan sailors whose daring exploits initiated the British struggle for world trade and dominion there is none more famous than Sir Francis Drake. As a Protestant seaman, he added religious zeal to his enthusiasm for the plunder of Spanish commerce. In a time when the contest for oceanic traffic took the form of ill-disguised warfare, Drake showed himself master of the art of sailing, fighting, and freebooting. He made many bold and successful expeditions, but one of them stands out above all others on account of its uniqueness and daring. That is his voyage around the world, on which he set out in 1577. The story of this journey is told in Mr. Corbett's little volume on Drake from which is taken the following extract relating a part of the tale after the rounding of South America.

### § 1. *Raiding Spanish Shipping*[1]

Lord Burleigh's scheme had failed, and Drake was knocking at the golden gates. In the teeth of the astutest ministers of the time, he was about to blow the blast before which the giant's doors would fly open, and deliberately to goad the giant into open fight. Full of the momentous meaning of his resolve, he paused upon the threshold to do honor to the mistress whose favor he wore. Before the frowning entry he caused his fleet, in homage of their sovereign lady, to strike their topsails upon the bunt as a token of his willingness and glad mind, and to show his dutiful obedience to her Highness. It was a piece of true Elizabethan chivalry, and like a true Elizabethan knight he accompanied it with a shrewd stroke of policy. Sir Christopher Hatton had now no visible

[1] Corbett, *Drake*, chap. vi. By permission of Julian Corbett, Esq., and The Macmillan Company, Publishers.





connection with the venture. The vessel named after him had been broken up, and his representative had been beheaded. Drake knew well how flat fell prowess at the Faery Queene's court if a man had not a friend at her ear. He knew, too, that no reputation was so fashionable just then as that of a patron of discoveries, nor could he be ignorant that all the new favorite's good-will would be required to save him from Burleigh's power. So on the poop of the little flagship was placed the crest of the *Captain of the Guard*, and in his honor the *Pelican* became the *Golden Hind*.

So protected, Drake boldly entered the straits. Then from the towering snow-cones and threatening glaciers that guarded the entry the tempests swept down upon the daring intruders. Out of the tortuous gulfs that through the bowels of the fabulous Austral continent seemed to lead beyond the confines of the world, rude squalls buffeted them this way and that, and currents, the like of which no man had seen, made as though they would dash them to pieces in the fathomless depths where no cable would reach. Fires lit by natives on the desolate shores as the strangers struggled by, added the terrors of unknown magic. But Drake's fortitude and consummate seamanship triumphed over all, and in a fortnight he brought his ill-sailing ships in triumph out upon the Pacific. Then, as though maddened to see how the adventurers had braved every effort to destroy them, the whole fury of the fiends that guarded the South Sea's slumber rushed howling upon them. Hardly had the squadron turned northward than a terrific gale struck it and hurled it back. The sky was darkened, and the bowels of the earth seemed to have burst, and for nearly two months they were driven under bare poles to and fro without rest, in latitudes where no ship had ever sailed. On the maps the great Austral continent was marked, but they found in its place an enchanted void, where wind and water, and ice and darkness, seemed to make incessant war. After three weeks' strife, the *Marygold* went down with all hands; and in another week Wynter lost heart, and finding himself at the mouth of the Straits, went home in despair; while the *Golden Hind*, ignorant of the desertion, was swept once more to the south of Cape Horn. Here, on the fifty-third day of its fury, the storm ceased, exhausted, and Drake found himself alone. But it was no moment to repine, for he knew he had made a discovery so brilliant as to deprive even Magellan's of its radiance. He was anchored among the islands southward of anything known to geographers, and before him the Atlantic and Pacific rolled together in one great flood.





In his exultation he landed on the farthest island, and walking alone with his instruments to its end, he laid himself down, and with his arms embraced the southernmost point of the known world. . . .

About a month later, little dreaming what had taken place, the crew of the *Grand Captain of the South* were lazily waiting in Valparaiso harbor for a wind to carry them to Panama with their cargo of gold and Chili wine. As they lounged over the bulwarks a sail appeared to the northward, and they made ready a pipe of wine to have a merry night with the newcomers. As the stranger anchored they beat her a welcome of their drum, and then watched her boat come alongside. In a moment all was in confusion. A rough old salt was laying about him with his fists, shouting in broken Spanish, "Down, dog, down!" and the astounded Spaniards were soon tight under hatches. It was Tom Moone at his old work. Hither the *Golden Hind* had been piloted by a friendly Indian in its search for provisions and loot. The little settlement was quickly plundered of all it had worth taking, and Drake's mariners, who for months had been living on salted penguin, and many of whom were suffering from wounds received in an encounter with the islanders of Mocha, were revelling in all the dainties of the Chilian paradise. For three days the mysterious ship, which seemed to have dropped from the skies, lay in the harbor collecting provisions, and then, laden with victuals, it sailed away northward with its prize.

Drake's great anxiety now was to rendezvous his scattered fleet for the sack of Lima and Panama, and assured that Wynter must be ahead he fully expected to find him in 30° north latitude, the point agreed on. After an ineffectual attempt to water at Coquimbo, where he found the Spaniards in arms, he discovered a natural harbor a little north of it which suited his purpose. In a month his preparations were complete. The men were thoroughly refreshed; a pinnace had been set up; the *Golden Hind* refitted from stem to stern, and under the guidance of the pilot of the *Grand Captain* he set out to realize the dream of his life. Every one except perhaps poor John Doughty was in the highest spirits. The return of health and the glorious climate made them reckless of the dangers of their single-handed attempt. Still they trusted to find the *Elizabeth*, and as they searched the coast for water with the pinnace they never lost hope of hearing of her. Fresh plunder constantly compensated for their continued disappointment. At one point on the coast of Tarapaca they found a Span-





iard asleep with thirteen bars of silver beside him. They apologized profusely for disturbing his nap, and politely insisted on making amends by relieving him of his burden. Farther on they met another driving a train of guanacoes laden with some eight hundred pounds of silver, and expressing themselves shocked to see a gentleman turned carrier they took his place; but somehow, as they afterwards said, they lost the way to his house and found themselves suddenly just where they had left the pinnace.

So they romped along that peaceful coast, startling its luxurious slumbers with shouts of reckless laughter till they came to Arica, the frontier town of Peru and the point where the fabulous wealth of the Potosi mines was embarked for Panama. It was a place important enough to have tempted the *Elizabeth* from her tryst. But not only was no trace of her to be found, but so hot was the alarm in front of Drake that two small treasure-barks were all there was in the harbor to plunder and the town was in arms. A few hours ago a galleon had escaped northward, laden with eight hundred bars of silver, all belonging to the king of Spain, and fuming to so narrowly miss his revenge, Drake at once resolved to give chase. Without further care for his consort or any attempt on the town he hurried on with his pinnace and the Valparaiso prize, till at Chuli, the port of Arequipa, they saw the chase at anchor. Her capture was without a blow, for not a man was found aboard her — nor a bar of silver either. Two hours ago the whole of it had been heaved overboard to save it from Drake's hands, and in a fury of disappointment he at once set both the slow-sailing prizes adrift out into the ocean. For he was resolved by a dash on Lima to outstrip his notoriety at all costs, and so once more the *Golden Hind* and its pinnace spread their wings northward alone.

It was on February 15 that, in the dead of night, they quietly entered Callao de Lima. The harbor was full of shipping, and the pilot whom Drake had seized from a vessel outside was made to take him right in among them. A ship from Panama was entering at the same time, and as they anchored side by side, a custom-house boat at once put off and hailed them. Not content to wait till the morning, a sleepy officer boarded the *Golden Hind*, and before he knew where he was he tumbled right on the top of a big gun. Frightened to death, he was over the side again in a moment, and his boat dashed away crying the alarm. The ship of Panama cut her cables, and Drake slipped into the pinnace to take her, but as she showed fight he left her for the present and turned to





ransack the defenceless shipping that lay around him. From ship to ship he went, but not an ounce of treasure could he find. It was all ashore except a vast quantity which had recently been shipped for Panama in a large vessel called *Our Lady of the Conception*, and nicknamed the *Spitfire*. That was enough for him. He returned to the *Golden Hind*, left his anchorage, and as he drifted out in the calm which had fallen, he captured the ship of Panama. But then ensued a delay both exasperating and dangerous. For three days there was not a breath of wind, and the Viceroy of Peru, marching down from Lima with two thousand troops, sent out four vessels to capture or burn the rover as he lay becalmed. All was in vain. Ere they found heart to close with the terrible stranger the breeze sprang up and away he went in hot pursuit of the treasure-ship. It had fourteen days' start of him, but he did not despair, and while the Viceroy was solemnly casting guns to arm vessels to pursue him, Drake was ransacking ship after ship for treasure and news of the chase. She had stopped at Truxillo to load more bullion, and each prize told him he was overhauling her. At Paita he learned she had sailed but two days before. The scent was now hot indeed. Exasperated to miss his prey so narrowly, the admiral promised a golden chain to the man who first sighted her, and swore she should be his, though he tore her from her moorings at Panama itself. Across the line they raced and still no sight of her, till on March 1 off Cape San Francisco young John Drake, his page and nephew, claimed the reward. Fearful of alarming his quarry, Drake at once ordered casks to be trailed astern, and so managed to keep hull down till nightfall. Then the *Golden Hind* was slipped, and in one bound rushed alongside her prey. A single shot brought her to reason, and then side by side the two ships ran westwards for three days into the silent wastes of the Pacific. For three days more they lay together, and when they parted there were added to Drake's treasure thirteen chests of pieces of eight, eighty pounds' weight of gold, jewels untold, and the *Golden Hind* was literally ballasted with silver.

So huge was the booty that the only thought was home. To attempt Panama single-handed would in any case have been madness, and Drake resolved to return, but not by the way he came. The great discoveries he had already made did not satisfy his greed for renown. He had swept one whole continent from the globe; by his survey of the coast of Chili he had for the first time determined the shape of another; and now he was minded to settle





forever the question of the North West passage. From the Atlantic his rivals were seeking the fabulous Strait of Anian, and by that channel, if it existed, he determined to find his way home.

His daring resolve completely outwitted the Spaniards. The Viceroy of Peru sent his most brilliant officer, Don Pedro Sarmiente de Gamboa, in pursuit. He sought the rover towards Panama, but he was not there. Still ignorant that it was not the only passage between the two oceans, he turned to bar the way at the Straits of Magellan, and Drake was not there. But far away, in his palace at Mexico, Don Martin Enriquez, the perjured Viceroy who eleven years ago had broken his word at Vera Cruz, had news in plenty. Mocking greetings from his unknown enemy disturbed his ease, and he had to read news from the Nicaraguan coast that sorted ill with a quiet siesta. There a corsair, the like of whom no man had seen, had been at work. His prisoners had found him surrounded by a council of the younger sons of the first men in England, who always approached him hat in hand and stood in his presence. He dined in state to the sound of violins, and his crew, whose discipline filled the Spaniards with amazement, adored him. He was a martinet, and took no man's advice, but he heard all alike and had no favorite. He had artificers of every kind, and at the Isle of Caño had just careened and refitted his ship, God and his saints only knew for what fresh depredations. He had cartographers who were making charts of the coast as he went, so that whole fleets might follow in his track. And as for catching him, so well armed and so fast was his ship that that was out of the question. The whole coast of New Spain was in a fever of alarm, for they knew it was the same Drake, the cousin of Aquinez, who five years ago had raided Nombre de Dios. The Bishop of Guatemala began melting his chimes into guns, ships were fitted out, and troops moved up and down. In a month they expected to be ready to take the sea, but in a week Drake had done his work. Swooping on the port of Guatulco, he had found the court sitting, carried off all the judges bodily to his ship, and then made them send an order for every man to leave the town. This done, he revictualled at his ease from the Spanish storehouses, and next day he was away once more. He had less idea of staying than ever; for, lurking off the coast of Nicaragua, on the track of the China trade, he had made a capture of greater value than all his treasures. It was a vessel on which were sailing two China pilots, and now snug in the cabin of Spain's arch-enemy were the whole of the secret





charts by which was conducted the rich Spanish trade across the Pacific.

### § 2. *The Northern Voyage*

For Spain it was a disaster of which no man could see the end, and, hugging his inestimable treasures, Drake sped northward to find his way back into the Atlantic. By the first week in June he had reached close-hauled on the northeast trade as high as the latitude of Cape Mendocino; but here he was suddenly caught in a storm of extraordinary severity. His rigging was frozen, his crew were half-paralyzed. Still he struggled on, firing his men with his own hot courage. In two days more he reached the latitude of Vancouver, and there he gave up the struggle. The land still trended westward, the weather grew more and more severe, and he made up his mind that if the passage existed it was impracticable. So the great resolve was taken, and running south to find a port to prepare the *Golden Hind* for her tremendous effort, he put into a natural harbor near San Francisco, where the cliffs were white like those at home, and the soil was teeming with gold. As fort and dockyard rose by their lonely shores, the Indians gathered in wonder and would have worshipped the strangers as beings from a better land. The horrified Puritans protested as kindly as they might, and when persuaded Drake was human, the simple savages crowned him in his mistress's name king of New Albion. So at least the old navigators understood the strange ceremonies with which the month of their stay was occupied; and the loud lamentations of their friends when they departed filled their imaginations with visions of an empire of Englishmen hardly less grand than the great reality.

### § 3. *Across the Pacific*

It was on July 25 that, with a boldness we can hardly realize, the course was laid direct for the Moluccas. Their instruments for finding latitude were far from perfect; longitude it was practically impossible for them to determine at all; their logs were so distrusted that as a rule they preferred to guess the runs; and the variation of the compass was ascertained with childish crudeness. Yet Drake did not even condescend to follow the beaten trade-track of the Spaniards along the ninth parallel. But straight across the Pacific, from where he was to where he wished to be, he pushed his way as it were by inspiration. For sixty-eight days





they had no sight of land. By the end of September they found themselves close to the equator, and turning to the northward to avoid the counter-current, on the last day of the month they ran in amongst the Carolines.

The rest is long to tell: how, getting clear of the pilfering natives, Drake made the Philippines, and coasting along them ran from the southern point of Mindanao through the Talautse group and past Togolando to the Moluccas; how at Ternate he made an exclusive commercial treaty with the king which, for a century afterwards, was the sheet-anchor of our diplomatists in their quarrels with the Dutch and Portuguese about the East Indian trade; how he careened again at an island near the Greyhound Strait, and then, after trying to beat northward into the Macassar channel, turned back to pass southward, and was at once entangled in the reef-encumbered seas that wash the eastern coasts of Celebes; and how, after escaping a thousand dangers in the first days of the year 1580, as they were sailing along the south of Peling Island with a fine topsail breeze, they ran full tilt on a reef. There for twenty hours they lay at the mercy of God. All around was deep sea, where no hold could be got for warping. Every shift was tried, but not an inch would the treasure-laden vessel stir, and death only grew more real before them. Hopeless and exhausted, they desisted from their efforts, and in solemn preparation for the end, took the sacrament together. Then in the good old Puritan fashion, to aid the Lord, Drake made jettison of guns and spices worth their weight in silver, till lo! in the midst of their pious labor the wind changed, and, like the breath of the Saviour in answer to their prayers, gently slid them from the rock. It was the gravest danger of all their voyage, and for nearly two months more, as they groped their way about the Floris Sea and struggled with baffling gales, they hourly expected its recurrence. But every peril was overcome at last, and in March they were well clear of the Archipelago, and with thankful hearts refitting, cleaning, and victualling in a southern port of Java. So the great exploit was accomplished, and the prayer uttered so devoutly six years ago upon the giant tree in Darien was more than fulfilled. God had given his supplicant life and leave to sail the South Sea in an English ship, and he had sailed it from side to side. Its secret was England's at last; and, laden with its wealth, in two months more the triumphant explorer was ploughing his homeward way towards the Cape of Good Hope.





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## CHAPTER III

### RISE OF BRITISH DOMINION IN INDIA

THE rise of British dominion in India under the management of a trading company has been regarded by many writers as one of the wonders of history; but a careful examination of the conditions in India and the steps by which British power was built up makes the whole process clear and simple. The rich trade of the East which first attracted British merchants was older than the time of Alexander the Great, but it was not until 1498 that the Portuguese under Vasco da Gama found a water route around Africa to India. For almost one hundred years the Portuguese enjoyed the immense profits of this commerce, but in 1591 the English sent an expedition to trade on their own account. Four years later Dutch merchants despatched their first expedition and the three powers soon entered into a heated rivalry for trading advantages. In this bitter contest, the Portuguese were vanquished, the Dutch triumphed in the Spice Islands, and the English confined their enterprises largely to the mainland of India. In 1667 the French joined in the race for Eastern markets and by the opening of the eighteenth century had secured several important posts in India. This trade rivalry was shortly transformed into a contest for dominion, and to understand this one must examine the local situation in India.

When the English first went to India, that country was ruled by a mighty Mohammedan Moghul, whose ancestors had conquered the native population and founded a great empire. As long as powerful Moghuls succeeded one another, the European traders were secure in their operation, and the possibilities of conquest were slight. However, in 1707, the last of the great Moghuls, Aurangzeb, died and his dominions began to go to pieces under

the weak rule of his successors. Shortly the English and French opened a contest for the dismemberment of the ancient empire in which the latter were overthrown during the Seven Years' War. Finally, the English were compelled to war with the native and Mohammedan princes, and step by step they wrested from them the fragments of the disintegrating empire. This whole story is told in a clear and readable fashion by Sir Alfred Lyall, in his *Rise of British Dominion in India.*

### § 1. *Two Periods in the Growth of British Power*[1]

The rise and territorial expansion of the English power may be conveniently divided into two periods, which slightly overlap each other, but on the whole mark two distinct and consecutive stages in the construction of our dominion. The first is the period when the contest lay among the European nations, who began by competing for commercial advantages, and ended by fighting for political superiority on the Indian littoral. The commercial competition was going on throughout the whole of the seventeenth century; but the struggle with the French, which laid the foundation of our dominion, lasted less than twenty years, for it began in 1745, and was virtually decided in 1763.

The second period upon which we are now about to enter is that during which England was contending with the native Indian powers, not for commercial preponderance or for strips of territory and spheres of influence along the seaboard, but for supremacy over all India. Reckoning the beginning of this contest from 1756, when Clive and Admiral Watson sailed from Madras to recover Calcutta from the Nawáb of Bengal, it may be taken to have been substantially determined in fifty years; although for another fifty years the expansion of our territory went on by great strides, with long halts intervening, until the natural limits of India were attained by the conquest of Sinde and the Punjab.

### § 2. *Explanation of the Easy Conquest of India*

The first thing that must strike the ordinary observer on looking back over the hundred years from 1757 to 1857, during which the

[1] Lyall, *The Rise of British Dominion in India*, pp. 98 ff. By permission of Charles Scribner's Sons, Publishers.

acquisition of our Indian dominion has been accomplished, is the magnitude of the exploit; the next is the remarkable ease with which it was achieved. At the present moment, when the English survey from their small island in the West the immense Eastern empire that has grown up out of their petty trading settlements on the Indian seaboard, they are apt to be struck with wonder and a kind of dismay at the prospering of their own handiwork. The thing is, as has been said, so unprecedented in history, and particularly it is so entirely unfamiliar to modern political ideas, — we have become so unaccustomed in the Western world to build up empires in the high Roman fashion, — that even those who have studied the beginnings of our Indian dominion are inclined to treat the outcome and climax as something passing man's understanding. Our magnificent possessions are commonly regarded as a man might look at a great prize he had drawn by luck in a lottery; they are supposed to have been won by incalculable chance.

But it may be fairly argued that this view, which embodies the general impression on this subject, can be controverted by known facts. The idea that India might be easily conquered and governed, with a very small force, by a race superior in warlike capacity or in civilization, was no novelty at all. In the first place, the thing had actually been done once already. The Emperor Bâber, who invaded India from central Asia in the sixteenth century, has left us his authentic memoirs; it is a book of great historical interest, and nothing more amusing has ever been written by an Asiatic. He says: "When I invaded the country for the fifth time, overthrew Sultan Ibrahim, and subdued the empire of Hindusthan, my servants, the merchants and their servants, and the followers of all friends that were in camp along with me, were numbered, and they amounted to twelve thousand men. I placed my foot," he writes, "in the stirrup of resolution, and my hands in the reins of confidence in God — and I marched against the possessions of the throne of Delhi and the dominions of Hindusthan whose army was said to amount to one hundred thousand foot, with more than one thousand elephants. The Most High God," he adds, "did not suffer the hardships that I had undergone to be thrown away, but defeated my formidable enemy and made me conqueror of this noble country."

This was done in 1526; Bâber's victory at Paniput gave him the mastery of all northern India and founded the Moghul empire. He had really accomplished the enterprise with smaller means and





resources than those possessed by the English when they had fixed themselves securely in Bengal with a base on the sea; and the great host which he routed at Paniput was a far more formidable army than the English ever encountered in India until they met the Sikhs. Now what had been done before could be done again, and was indeed likely to be done again. So when at the opening of the eighteenth century the Moghul empire was evidently declining towards a fall, and people were speculating upon what might come after it, we find floating in the minds of cool observers the idea that the next conquest of India might possibly be made by Europeans.

### § 3. *Early European Views of the Situation in India*

The keynote had indeed been struck earlier by Bernier, a French physician at the court of Aurangzeb, towards the close of the seventeenth century, who writes in his book that M. de Condé or M. de Turenne with twenty thousand men could conquer all India; and who in his letter to Colbert lays particular stress first on the riches, secondly on the weakness of Bengal. But in 1746 one Colonel James Mill, who had been twenty years in India, submitted to the Austrian Emperor a scheme for conquering Bengal as a very feasible and profitable undertaking. "The whole country of Hindusthan," he says, "or empire of the Great Moghul, is, and ever has been, in a state so feeble and defenceless that it is almost a miracle that no prince of Europe, with a maritime power at command, has not as yet thought of making such acquisitions there as at one stroke would put him and his subjects in possession of infinite wealth. . . . The policy of the Moghul is bad, his military worse, and as to a maritime power to command and protect his coasts, he has none at all. . . . The province of Bengal is at present under the dominion of a rebel subject of the Moghul, whose annual revenue amounts to about two millions. But Bengal, though not to be reduced by the power of the Moghul, is equally indefensible with the rest of Hindusthan on the side of the ocean, and consequently may be forced out of the rebel's hand with all its wealth, which is incredibly vast." If we bear in mind how little could have been accurately known of India as a whole by an Englishman in 1746, we must give Colonel Mill credit for much sagacity and insight into the essential facts of the situation. He discerns the central points; he places his finger upon the elementary causes of India's permanent weakness, her political instability within, and her sea-coast exposed and undefended externally.





### § 4. *The British in the Province of Bengal*

In the year 1716 the English, whose trading factories had long been established in Bengal, obtained from the Moghul Emperor an important firman, or imperial order, permitting them to import and export goods upon payment of a fixed tribute, and protecting them from the heavy and arbitrary taxes laid on them at the caprice of the Nawábs. Bengal was a province under a governor whose ordinary title was the Nawáb Názim, who held office during the pleasure of the Emperor, and who was frequently changed, so long as the empire was in its vigor, lest he should become too strong for the central authority. But as the power of the Emperor declined the independence of the Nawábs increased in this distant province, until in the eighteenth century, when Maratha insurrections and the irruptions from central Asia multiplied the distractions of the State, the Bengal governors paid little obedience and less revenue to Delhi.

Under Murshid Kuli Khan, a man of considerable ability, the governorship became in the usual fashion hereditary; but in 1742 his grandson was overthrown and slain by Aliverdi Khan, an Afghan adventurer who raised himself from a very humble post to be deputy-governor of Behar, and who won for himself by the sword the rulership of Bengal. During the fourteen years of his strong administration the foreign merchants had no great reason to complain; for although he levied large subsidies from the English, French, and Dutch factories, he gave them protection and enforced good order, suppressing all quarrels and tolerating no encroachments. On his death, in 1756, he was succeeded by his adopted son, known in English histories as Suráj-ud-daulah, a young man, whose savage and suspicious temper was controlled by no experience or natural capacity for rulership, and who had long been jealous of the English, whom he suspected of having corresponded with a possible rival against him for the succession.

### § 5. *The Black Hole of Calcutta*

The new Nawáb had just been proclaimed when letters reached Calcutta from England informing the president that as war with France was expected he should put his settlement in a state of defence, whereupon he began to strengthen the fortifications. But the right to fortify their places had not been conceded to the





English in Bengal; and the Nawáb, to whom some offence had previously been given by the abrupt dismissal of a messenger, sternly ordered them at once to desist. The English president, Drake, not understanding his danger, answered by explaining that his fortifications were against the French, who had disregarded the neutrality of the Moghul's dominions in the last war by taking Madras, and who might this time attack Calcutta. This reply Suráj-ud-daulah took to mean that his protection and sovereign authority were very lightly regarded by the foreigners. In great indignation he seized the factory at Kasimbazar, near his capital, and marched with a large army upon Calcutta. The English defended themselves for a time; but the town was open, the governor and many of the English fled in ships down the river, and the rest surrendered on promise of honorable treatment. Yet those whom the Nawáb captured with the fort were thrown into a kind of prison-room called the Black Hole, from which, after one night's dreadful suffering, only twenty-three out of one hundred and forty-six emerged alive.

### § 6. *Clive and the Battle of Plassey*

As soon as the news of this dismal catastrophe reached Madras, the president lost no time in despatching the fleet, commanded by Admiral Watson, to Bengal, with troops under Colonel Clive. The force was calculated to be sufficient not only for retaking Calcutta, but also for reducing Hooghly, expelling the French from Chandernagore, and even for attempting the Nawáb's capital at Múrshidábád; and Clive set out, as he wrote, "with the full intention of settling the Company's estate in those parts in a better and more lasting condition than ever." He had less reason, he added, to apprehend a check from the Nawáb's army than from the country and the climate. Nor indeed does it appear that any serious misgivings as to the result of the expedition troubled the government at Madras, where they were only anxious to get the business done in Bengal before the French armament under Lally should arrive on the Coromandel coast. Clive lost no time in driving the enemy's garrison out of Calcutta; and when the Nawáb himself marched down to encounter him, an indecisive engagement took place, followed by a truce which was very soon broken. Watson and Clive carried by assault the intrenched station of the French at Chandernagore; but the Nawáb, who at first acquiesced, at the last moment withdrew his consent to the attack, and he was

secretly inviting Bussy to march from Hyderabad to his relief. There could be no reasonable doubt that Suráj-ud-daulah would renew hostilities on the first opportunity, while on the other hand, Lally's expedition must soon reach the eastern coast, and the Madras government was urgently pressing for the return of the troops.

The English in Bengal thus found themselves in a perilous dilemma, since the troops could not return to Madras until Calcutta had been in some way placed beyond danger from the Nawáb. When, therefore, overtures were received from certain disaffected chiefs of the Nawáb's court, Clive entered into a compact to dethrone Suráj-ud-daulah, and to set up in his stead Meer Jáfir, one of the principal conspirators. He then marched up the country against the Nawáb, whom he found intrenched at Plassey with about fifteen thousand cavalry, thirty thousand foot, and forty pieces of cannon. The engagement began with some cannonading, in which a battery managed by Frenchmen gave much annoyance to the English. But as soon as the French had been dislodged and some rising ground occupied that commanded the interior of the enemy's fortified camp, Clive delivered his assault at one angle; whereupon the Nawáb fled, and his whole army dispersed in a general rout, leaving on the field its camp equipage, its artillery, and about five hundred men. Clive's despatch reports the loss on his side to have been twenty-two killed and fifty wounded. Next morning Meer Jáfir, who had merely hovered about the flanks of the engagement with a large body of cavalry, paid a visit to Clive, was saluted as Nawáb, and hastened to occupy the capital, Múrshidábád, where he soon after put to death Suráj-ud-daulah. The whole province quietly submitted to the new ruler; the Emperor's government at Delhi, which was just then occupied by Ahmed Shah with an Afghan army, was totally incapable of interference, so that by this sudden and violent revolution the English ascendency became at once established in Bengal.

### § 7. *The Native Armies of the Period*

The rout of Plassey — for it can hardly be called a battle — is in itself chiefly remarkable as the first important occasion upon which the East India Company's troops were openly arrayed, not as auxiliaries, but as principals against a considerable native army commanded in person by the ruler of a great province. It stands, in fact, first on the long list of regular actions that have





been fought between the English in India and the chiefs or military leaders of the country. The event supplies, therefore, a very striking illustration of the radical weakness of those native governments and armies to whom the English found themselves opposed in the middle of the eighteenth century. This inherent feebleness of our adversaries, the inability to govern or defend their possessions, obviously explains why the English, who could do both, so rapidly made room for themselves in a country which, though rich and populous, was in a practical sense masterless. It must also be remembered that Bengal and the other provinces bordering on the sea in which the English won these facile triumphs were far more defenceless than the inland country, partly through the dilapidation of the central power, partly because the people of those tracts are naturally less warlike than elsewhere, and partly by the accident that they were just then very ill-governed. The army of the later Moghul emperors had always been bad; yet until Aurangzeb died it was quite strong enough to repulse any small expeditionary force descending upon the coast. Nor could such a stroke as Clive's at Plassey have been attempted with impunity if Bengal had happened to possess a vigorous and capable viceroy; for a few years later our first campaigns against Hyder Ali in the south and the Marathas in the west showed us that under competent leadership the superior numbers of an Indian army might make it a very dangerous antagonist.

We have to understand, then, that our earliest victories were over troops that were little better than a rabble of hired soldiers, without coherence or loyalty. An Indian army of that period was usually an agglomeration of mercenaries collected by the captains of companies who supplied men to any one able to pay for them, having enlisted them at random out of the swarm of roving free-lances and swordsmen, chiefly Asiatic foreigners, by whom all India was infested. These bands had no better stomach for serious fighting than the condottieri of Italy in the sixteenth century; the close fire of European musketry was more than they had bargained for; and artillery properly served, they could not face at all. Moreover their leaders changed sides without scruple, and were constantly plotting either to betray or supplant their employers. It is not surprising, therefore, if troops of this kind were such exceedingly perilous weapons in timid or maladroit hands, that the prince, governor, or usurper who had retained their services often went into action with a very uncomfortable distrust of his best regiments. In the eighteenth century most of the

revolted provinces of the empire had been appropriated by successful captains of these mercenaries, among whom the best fighting men were the Afghans. Their most celebrated leader was Ahmed Shah, the Abdallee, a mighty warrior of the Afghan nation, and the only great Asiatic soldier who appeared in India during the eighteenth century.

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# CHAPTER IV

## THE CONTEST FOR CANADA

WHILE the English colonists were building up their relatively compact political communities on the narrow Atlantic seaboard, French settlers were scattering their energies over a vast area stretching from the Gulf of the St. Lawrence to the mouth of the Mississippi. Having explored the Mississippi and Ohio valleys, to say nothing of their Western expeditions towards the Rocky Mountains, the French naturally claimed all the lands drained by these great waterways. The forts which were the advance guard of their dominion were steadily pushed south and east toward the confines of the English settlements. The English also claimed these Western lands, and before the end of the seventeenth century trappers and explorers began to pour over the mountains into the West. Frontier warfare was carried on in a desultory but costly fashion until the Seven Years' War which was destined to destroy French dominion. The most striking actors in this last scene of a long drama were Wolfe and Montcalm in their final contest for the possession of Canada.

### § 1. *Relative Strength of French and British*[1]

An important aim of Pitt's enterprise in 1759 was the conquest of Canada. The other French dominions and dependencies in North America had already fallen like outposts; but Canada, as the citadel, remained — the last and greatest of all. That province is thought to derive its name from the Indian word *Kanata*, which denotes a collection of huts, but which the first discoverers mistook as applying to the country. It had been settled, or, at least, explored, by the French, so early as the reign of Francis

[1] Lord Mahon, *History of England, 1713–1783*, Vol. IV, pp. 148 ff.

the First; but it was not until the next century that the cities of Quebec and Montreal arose, — the former in connection with the Commercial Company of the West Indies, the latter with the religious seminary of St. Sulpice. Louis XIV, however, early in his reign decided on resuming the rights of the crown and forming Canada into a royal government. In 1759 the population of this colony was sixty thousand souls; scarcely more — so rapid has been the growth of its prosperity — than the annual amount of its immigration eighty-three years afterwards. In fact, few countries were ever more highly gifted with whatever can conduce to the welfare and greatness of a people: a fertile soil, abundant and excellent timber, navigable lakes and rivers, a rigorous, but healthy and invigorating, climate.

In comparing together the French and the English colonists in North America at this period of 1759, we shall find, as is acknowledged by the French historians, the English far superior in numbers and wealth, in trade and industry. But, on the other hand, the French had reaped no small advantage from their more lively temper and conciliatory manners; they had attached to themselves much the greater proportion of the Red Indian tribes. It is true that the English as well as the French could claim the assistance of some of these savage allies who, besides fighting with courage or suffering with firmness, were ever ready to destroy defenceless property, to fire unguarded outposts, to murder and to scalp their prisoners — atrocities which both English and French accused each other by turns of secretly directing, and which it is certain at least that neither were sufficiently zealous to prevent. But by far the larger numbers of this Indian race, from the mouth of the St. Lawrence to the mouth of the Mississippi, had become estranged from the English and friendly to the French. No man was more skilful in maintaining this attachment, or employing it in war, than the Marquis de Montcalm, the French general in Canada, and the second in authority to their governor, the Marquis de Vaudreuil. Montcalm was born at Nismes in 1712; he had attained high rank in the service of his country at home, and no less high praise for skill, honor, and intrepidity. To cope with such an adversary on his own ground, within sight of his own walls of Quebec, required no common mind; a hero was needed, but a hero was found when the execution of Pitt's designs on Canada was wisely committed to Wolfe.

### § 2. *Career and Character of Wolfe*

The father of our hero, General Edward Wolfe, a veteran from the wars of Marlborough, had on his retirement fixed himself at Westerham in Kent, where he rented the vicarage house as his residence. In that house his eldest son James was born in 1726. At the early age of fourteen the boy entered the army. He was present at the battles of Dettingen in 1742, of Fontenoy in 1745, and of Lauffeld in 1747. Such was his conduct on the last occasion as to attract the notice and receive the thanks of his chief, the Duke of Cumberland. After the peace — being already at the age of twenty-two a lieutenant-colonel — he was quartered in Scotland, and then in the south of England.

Nature had done but little for him either in comeliness or vigor; he had flaming red hair, and, contrary to the fashion of the times, wore no powder to conceal it. Even from his early youth he had suffered very severely from pains, and the seeds of fatal diseases were deep-laid in his constitution. Nor were his first address and manner engaging, although in private life he was esteemed by all who knew him as upright, religious, and humane. It was observed by himself in writing to his mother: "My nature requires some extraordinary events to produce itself. I want that attention and those assiduous cares that commonly go along with good-nature and humanity. In the common occurrences of life I own I am not seen to advantage." Happy they who can thus calmly and truly judge their own character! Still happier they to whom "extraordinary events" do afford an open field for extraordinary powers! How common and how cruel either of these alternatives in human life, — incapacities which embitter and disgrace a high station, or talents which pine in a low one!

The correspondence of Wolfe contains frequent and favorable indications of his character. To his mother he writes from Glasgow, "I have observed your instructions so religiously that, rather than want the Word, I got the reputation of a very good Presbyterian, by frequenting the kirk of Scotland till our chaplain appears." It may be remembered that Dr. Johnson, on the contrary, thought it better to pass several months without joining in public worship rather than attend a church which rejected Episcopal ordination. Thus, again, Wolfe writes from Inverness: "There are times when men fret at trifles, and quarrel with their toothpicks. In one of these ill habits I exclaim against my present

condition, and think it the worst of all, but, coolly and temperately, it is plainly the best. Where there is most employment and least vice there one should wish to be." Thus, on another occasion, to his father: "By my mother's letter I find that your bounty and liberality keep pace, as they usually do, with my necessities. I shall not abuse your kindness, nor receive it unthankfully, and what use I make of it shall be for your honor and the king's service; an employment worthy the hand that gives it."

The amiable temper of Wolfe strongly inclined him from an early age to domestic life. In another passage of his correspondence he declares that he has "a turn of mind that favors matrimony prodigiously; I love children, and think them necessary to people in their later days." But struggling with such wishes, and at length overpowering them, glowed in his mind an ardent and chivalrous love of fame. It is this union of the gentle and the bold — of ambition and affection — that gives, as it appears to me, to his character an especial charm. His profession he had closely studied, and he thoroughly understood it. And he possessed, moreover, what no mere study can confer, — activity, enterprise, and readiness, — a courage that never quailed before danger, nor yet ever shrunk from responsibility. Over that aspiring spirit ill health could no more triumph than domestic repose. Thus, though sickness compelled him to return to England after the conquest of Cape Breton, he lost no time in offering his services to Pitt for the next American campaign. Pitt on his part bravely set at defiance the claims of seniority on this most important occasion. Had he consulted those claims only, — had he, like many ministers before and after him, thought the army list an unerring guide, — he might probably have sent out to Canada a veteran, experienced and brave, quick and active, and might, perhaps, have received in return a most eloquent and conclusive apology for being beaten or for standing still!

A slight incident connected with these times is recorded by tradition, and affords a striking proof how much a fault of manner may obscure and disparage high excellence of mind. After Wolfe's appointment, and on the day preceding his embarkation for America, Pitt, desirous of giving his last verbal instructions, invited him to dinner, Lord Temple being the only other guest. As the evening advanced, Wolfe — heated, perhaps, by his own aspiring thoughts, and the unwonted society of statesmen — broke forth into a strain of gasconade and bravado. He drew his sword, he rapped the table with it, he flourished it round the room, he

talked of the mighty things which that sword was to achieve. The two ministers sat aghast at an exhibition so unusual from any man of real sense and real spirit. And when at last Wolfe had taken his leave, and his carriage was heard to roll from the door, Pitt seemed for the moment shaken in the high opinion which his deliberate judgment had formed of Wolfe; he lifted up his eyes and arms, and exclaimed to Lord Temple, "Good God! that I should have intrusted the fate of the country and of the administration to such hands!" This story was told by Lord Temple himself to a near and still [1853] surviving relative, — one of my best and most valued friends. It confirms Wolfe's own avowal, that he was not seen to advantage in the common occurrences of life, and shows how shyness may at intervals rush, as it were, for refuge, into the opposite extreme; but it should also lead us to view such defects of manner with indulgence, as proving that they may co-exist with the highest ability and the purest virtue.

### § 3. *Pitt's Scheme for the Conquest of Canada*

The scheme of Pitt for the conquest of Canada comprised three separate expeditions, Quebec being the point of junction and the final object for each. On the left, a body of provincials under General Prideaux, and of friendly Indians under Sir William Johnson, was to advance against Niagara, reduce that fortress, embark on Lake Ontario, and threaten Montreal. In the centre was the main army, consisting of twelve thousand men, whose command had been taken from General Abercrombie after the last campaign, and intrusted to General Amherst. The instructions of Amherst were, to renew the attack on Ticonderoga, secure the navigation of Lake Champlain, and then push forward along the river Richelieu, to combine his operations with Wolfe. To Wolfe himself a force of eight thousand men was committed; he was ordered to embark in the fleet of Admiral Saunders, and to sail up the St. Lawrence as soon as its navigation should be clear of ice, with the view of attempting the siege of Quebec. This plan, as formed by a civilian, has not escaped censure from some military critics, who enlarge especially on the imprudence of prescribing or expecting coöperation between bodies of troops so widely distant, composed of such various elements, and liable to all the uncertainty and hazard of water-carriage. It was hardly possible that Amherst and Wolfe should arrive before Quebec

at the same period of time; and failing their junction it was highly probable that the first who came would be overpowered by Montcalm and his covering army. . . .

### § 4. *The Arrival of Wolfe*

The expeditions of Prideaux and Amherst are cast into the shade by Wolfe's. He had, according to his instructions, embarked on board the fleet of Admiral Saunders, which, after touching at Louisburg and Halifax, steered for the mouth of the St. Lawrence. During the voyage were taken two small store vessels of the enemy — a capture which seemed of slight importance, but which proved of the greatest, for on board these ships were found some excellent charts of the river, which enabled the admiral to sail up the stream in perfect safety, without encountering any of those obstacles and perils that (in popular apprehension, at least) attended its navigation. It was not until the 27th of June, however, that the army was landed on the Isle of Orleans, in front of Quebec. On the very next night the enemy made an attempt to destroy our armament by sending out from Quebec seven fire-ships. These came burning down the river, assisted by a strong current, and aimed directly upon our fleet; but our admiral, in expectation of some such design, had made preparations to defeat it. All his boats were out, well manned and well armed, with an officer in each. The fire-ships, on approaching, were instantly boarded; grapplings and chains were affixed to them, after which they were towed, clear of every ship, to shore on the Isle of Orleans, where they burnt to ashes without having done the least damage.

The Isle of Orleans, on which the army had landed, is about twenty miles long and seven broad, highly cultivated, and affording to the soldiers every kind of refreshment after their long and weary navigation. Wolfe, however, left them little leisure for repose. On the 29th he despatched Brigadier Monckton, with four battalions, across to the right bank of the river, that they might take possession of Point Levis, a headland which looks towards Quebec, and where the enemy had constructed a battery. This object was soon attained, after only two or three slight skirmishes between the advanced parties and the enemy's regular force. Wolfe himself marched with his main body along the island to its westernmost point, — from whence rose, full to view, the harbor and city of Quebec, — a sight at once tempting and discouraging. "For no place," says Burke, "seems possessed of





greater benefits of Nature, nor is there any of which Nature seems more to have consulted the defence." In Wolfe's own words, "there is the strongest country, perhaps, in the world, to rest the defence of the town and the colony upon."

### § 5. *The Situation of Quebec for Defence*

The city of Quebec is built upon and beneath a ridge of rocks that terminates as a promontory at the spot where the river St. Charles flows from the left bank into the St. Lawrence. This is also the point where the St. Lawrence first in its upward navigation appears to narrow; for while in the previous course of above one hundred leagues from its mouth it is nowhere less than from four to five leagues broad, — while it is divided by the Isle of Orleans into two both considerable streams, — it suddenly contracts above that Isle, and above the inlet of the St. Charles, so that opposite Quebec it is scarcely one mile over. Hence the name of Quebec has been derived from a word of similar sound, and denoting a strait, in one of the Indian tongues; while other writers deem it of French extraction, and perhaps only a corruption of the Norman Caudebec. At this period the town (divided into the Upper and Lower) might contain seven thousand souls; it held a cathedral, a bishop's palace, and other stately buildings, and was crowned by the castle of St. Louis. In front of the harbor there spreads a considerable sandbank, so as to prevent the close approach or attack of any hostile fleet. Beyond the city, the rugged ridges on which it is built continue steep and precipitous for many miles along the river, and are there called the Heights of Abraham. In the opposite direction, again, from the mouth of the St. Charles down the left bank of the St. Lawrence, the ground is scarcely less difficult and rugged during several miles, until nearly opposite the point of the Isle of Orleans, where the stream of Montmorency, after flowing through the upper country, descends into the St. Lawrence by a fall of three hundred feet.

To defend this strong country the Marquis de Montcalm had lately solicited and received fresh reënforcements from home. More than twenty ships, laden with supplies and recruits, had sailed before the blockade of the French ports and entered the St. Lawrence before the arrival of the English armament. Montcalm had, however, few regular soldiers, but many Canadians and Indians, in all about ten thousand — "a numerous body of armed men," says Wolfe, "for I cannot call it an army. — If

the Marquis," he adds, "had shut himself up in the town of Quebec, it would have been long since in our possession, because the defences are inconsiderable, and our artillery very formidable." But the skilful and wary Frenchman had resolved to trust to the strength of the country rather than that of the ramparts. He drew up his army on what was supposed the only accessible side of Quebec, on the line called Beauport, between the St. Charles and the Montmorency, communicating with Quebec by a bridge of boats over the St. Charles, and this ground, steep as it was by nature, he further intrenched at every open spot. On his front were the river and its sandbanks; on his rear, impenetrable woods. Thus posted he was able, without running any risk or hazard, to prevent either an investment of the city or a battle upon equal terms.

### § 6. *The Opening of Wolfe's Campaign*

The first measure of Wolfe, such being the state of things, was to raise batteries at the points both of Levis and of the Isle of Orleans. From hence his artillery began to play upon Quebec, to the damage of the Upper Town, to the destruction of the Lower, but without any tendency or progress towards the reduction of the place. Montcalm remained entirely on the defensive, except on one occasion, when he sent sixteen hundred men across the St. Lawrence to attack the English batteries on Point Levis. "Bad intelligence, no doubt, of our strength," writes Wolfe, "induced him to this measure; however, the detachment judged better than their general, and retired." Some works for the security of the British hospitals and stores were meanwhile constructing on the Isle of Orleans; after which, in the night of July the 9th, Wolfe caused his troops to be transported to the left bank, and encamped opposite the enemy, the river Montmorency flowing between them. During this time the enemy made repeated attempts against our ships by fire-rafts and other combustibles, but their designs were constantly baffled by the skill and vigilance of Saunders. A squadron was also despatched under Admiral Holmes, to pass by Quebec and fix its station farther up the St. Lawrence, so that the river might be blockaded both above and below the town.

The great object of the English general was now to entice or decoy the enemy from their strong camp to an engagement. Not only did he endeavor to alarm them for Quebec on the opposite side, by means of Holmes's squadron, but he repeatedly sent

detachments along the Montmorency to make a feint of passing that river farther from the falls. But no stratagem sufficed to draw the French commander from his advantageous post. Wolfe had also the mortification of seeing no effect from a manifesto which he had issued at his first landing, to assure the Canadians of protection in their persons, property, and religion, provided they remained quiet and took no part in the war. "Now, on the contrary," as he states himself, "we have continual skirmishes; old people, seventy years of age, and boys of fifteen, fire at our detachments, and kill or wound our men, from the edges of the woods." Incensed at such conduct, the general adopted, or at least connived at, a cruel retaliation. All the detached houses, the barns, the stables, — nay, even the standing corn, — were devoted to utter destruction, and thus both banks of the river began immediately to display a most dismal aspect of fire and smoke. Still, however, Montcalm, wisely intent on final triumph, remained immovable.

Nothing, therefore, remained for Wolfe but to attack the French in their intrenchments. The day he fixed for this hazardous attempt was the 31st of July; the place he selected was the mouth of the Montmorency, as the only quarter where his artillery could be brought into play, and from whence his retreat, in case of a repulse, could be secure. Accordingly the boats of the fleet were filled with grenadiers, and rowed towards the shore at the proper time of tide. As they drew near many of the boats grounded upon a ledge of rocks: an accident that caused some disorder and great delay. On reaching land the grenadiers had been directed to form themselves upon the beach, and to halt until other troops on their right had passed the Montmorency ford, and were ready to assist them. But whether from the noise and hurry of their landing, or from their own ill-regulated ardor, they rushed at once and impetuously towards the enemy's intrenchments. The enemy, from the summit of the heights, received them with a galling fire, which threw them presently into confusion, and obliged them to seek shelter behind a deserted redoubt. In this situation — unable to rally under so severe a fire, while the night drew on, while a tempest was gathering, while the tide began to make — the general saw no other resource than to order a retreat. This retreat he conducted with skill, everywhere exposing his person with characteristic intrepidity. "The French," he says, "did not attempt to interrupt our march. Some of their savages came down to murder such

wounded as could not be brought away, and to scalp the dead, as their custom is."

In this check the troops had sustained no inconsiderable loss, and, what was worse, had become downcast and dispirited. There seemed no longer any hope of forcing the French lines. The prospect of coöperation from Amherst or from Johnson, on which they had confidently reckoned, grew daily fainter and fainter. They learned, indeed, from some prisoners, that Niagara had been taken; that Ticonderoga and Crown Point had been abandoned; — but week after week passed on, the season wasted apace, and no auxiliaries appeared. Wolfe himself, fatigue and anxiety preying on his delicate frame, fell violently ill of a fever. No sooner was his health in some degree restored, than he proceeded with the admiral and the chief engineer to inspect, as closely as they could, the works of Quebec, with a view to a general assault; but there seemed to them no hope of success from such an enterprise. Wolfe had also summoned to council his second and third in command, — Brigadiers Monckton and George Townshend, the brother of Charles. It was their unanimous opinion, that no other chance remained than to carry the troops above the town, and thus again endeavor to draw Montcalm from his inaccessible post. In pursuance of this determination the camp at Montmorency was broken up, and the army moved across the river to Point Levis. From thence — again going on board their transports — they passed Quebec, and proceeded several miles up the St. Lawrence, when they once more disembarked on its right bank. So much had their ranks been thinned by death or by disease, that, after providing for the necessary defence of the Isle of Orleans, and of Point Levis, there remained scarcely more than thirty-six hundred effective men for action. To conceal in some degree their scanty numbers, and to spread doubts and alarms among the enemy, Admiral Holmes's squadron was directed to make movements up the river for several successive days, as if threatening more than one point above the town. The Marquis de Montcalm was not, however, induced to quit his lines; he merely despatched M. de Bougainville, with about fifteen hundred men, to watch the motions of the English army, and to keep alongside with it on the opposite shore.

It was under such circumstances, and on the 9th of September, that Wolfe addressed his last letter to the Secretary of State. His own view of his prospects was most gloomy; he writes as if anxious to prepare the public mind in England for his failure or retreat,

and as if his main motive in still remaining were to keep the French army in play, and divert it from other quarters. Here are his own concluding words, "I am so far recovered as to do business, but my constitution is entirely ruined, without the consolation of having done any considerable service to the state, or without any prospect of it." Let him who reads these words and their event learn from them never to lose hope of success in an honorable cause. The aid of Providence, as it should never be presumed on, so it should never be despaired of. Within five days from the date of that letter the name of Wolfe had become immortal to all ages!

### § 7. *Climbing the Heights of Abraham*

It does not seem certain at what period or by what accident the English general first conceived the daring thought to land his troops beneath the Heights of Abraham, on some point less guarded than the rest. But the honor of that first thought belongs to Wolfe alone; and, once conceived, it was no less ably and boldly pursued. The ships under Admiral Saunders were directed to make a feint opposite the French camp at Beaufort, as if another attack upon it were designed. A similar demonstration on the opposite side — three leagues higher up the St. Lawrence — was enjoined to Admiral Holmes. At or near his own station, Wolfe collected as many boats as he could without raising suspicion and alarm. All preparations being completed, he suddenly gave orders for the troops to embark about one o'clock in the morning of the 13th of September, favored by a dark night and by a flowing tide. There was only room on board for about half his army, and the remainder was left for a second embarkation. The point to which he steered was a small bay or inlet, less than two miles above Quebec. It has ever since borne the name of "Wolfe's Cove." Swiftly, but silently, did the boats fall down with the tide, unobserved by the enemy's sentinels, who were, or who should have been, at their posts along the shore. Of the soldiers on board, how eagerly must every heart have throbbed at the coming conflict; how intently must every eye have contemplated the dark outline as it lay pencilled upon the midnight sky, and as every moment it grew closer and clearer, of the hostile heights! Not a word was spoken, not a sound was heard beyond the rippling of the stream. Wolfe alone, thus tradition has told us, repeated in a low voice to the other officers in his boat those beautiful stanzas with which a country churchyard inspired the muse of Gray. One noble

line — "The paths of glory lead but to the grave" — must have seemed at such a moment fraught with mournful meaning. At the close of the recitation Wolfe added, "Now, gentlemen, I would rather be the author of that poem than take Quebec."

On reaching the northern bank at the spot designed, — and Wolfe was amongst the first to leap on shore, — the troops found themselves at the foot of a high and precipitous cliff, leading to an extensive tableland, — the Heights of Abraham. Close upon the brow of the hill was the post of a French captain, with one hundred and fifty men. There was but a single path upwards, scarcely to be discovered in the darkness, and so narrow that in some places no two could go abreast. But the ardor of Wolfe and of his men was not to be repressed. The vanguard, led by Colonel Howe, a brother of the nobleman who fell at Ticonderoga, began to scale the precipice, each man scrambling and climbing as he best could, but mostly pulling themselves up by the bushes and brambles, by the stumps of trees, or by the projecting points of rock. The enemy's picket, roused at length, but too late, heard the rustling from below, and fired down the precipice at random, as our men did up into the air. But immediately after this chance-volley, the French, struck with panic at the strangeness of the attempt, and the sudden appearance of foes, whom they supposed on the other side of the river, fled from their post, notwithstanding all the exertions of their officer. Our vanguard reached the summit in safety, and at once formed itself in line. Fresh detachments from below were now continually ascending, and a single piece of artillery was also by main force dragged up. Meanwhile the boats had gone back for the second embarkation under Brigadier Townshend, and thus at daybreak the whole British army stood in order of battle upon the heights.

### § 8. *The Battle on the Heights*

When the Marquis de Montcalm was first informed that the English army appeared on the Heights of Abraham, he thought the rumor only another feint to draw him from his lines; but, on riding forward, his own eyes convinced him of his error. Still, however, he was confident of a victory over his assailants. "I see them," he said, "where they ought not to be; but if we must fight, I shall crush them." Without further delay, he hurried over the St. Charles by the bridge of boats, with as many of his troops as he could muster for action on so sudden an emergency. He





found the English already advancing, and formed on the high ground at the back of Quebec. They had no cavalry, and only one gun, but were full of hope and ardor. Their left wing had been drawn out by Wolfe in the manner which military men call *en potence;* that is, a body with two faces to the enemy, so as to guard against its being outflanked. Amongst the troops in this quarter was a Highland regiment, one of Pitt's recent creation, and already conspicuous for its bravery and conduct; several of its men had been in Howe's vanguard, and thus the first to scale the precipice. On the right were the Louisburg grenadiers, extending towards the St. Lawrence, and with a regiment behind them as a reserve. It was in the front of this right wing, where the hottest fire was expected, that Wolfe had fixed his own station. The dispositions of Montcalm on his part were equally judicious. He had skilfully intermingled his regular and Canadian regiments, so as to strengthen and support the latter, while the greater part of his Indians were to spread themselves beyond the English left, and endeavor to outflank it. The thickets and copses in his front he filled with fifteen hundred of his best marksmen, who kept up an irregular but galling fire. By these skirmishers the advanced pickets of the English were driven in with something of confusion; but Wolfe hastened to ride along the line, encouraging the men to stand firm, telling them that the light infantry had only obeyed his instructions, and, above all, enjoining them to reserve their fire until the enemy should come within forty yards of the muzzles of their guns. Thus our troops remained immovable, while the French were coming on, and firing as they came. Many of our men were struck; Wolfe himself received a ball in his wrist, but he tied his handkerchief above the wound, and never swerved from his post. Immovable the troops remained until they saw the enemy within forty yards, then, indeed, a well-aimed and simultaneous volley was poured from the whole British line. No sooner had the smoke cleared away than the great effect of this close discharge became apparent; numbers of the enemy were lying on the ground; some few had fled; the greater part wavered. At this decisive moment Wolfe darted forward and cheered on his grenadiers to a charge. Just then a second ball struck him in the groin, but he dissembled his anguish, and continued to give his orders as before. A third shot, however, piercing his breast, he fell to the ground, and was carried to the rear. At nearly the same time, in another part of the field, Brigadier Monckton was severely wounded, and thus the command devolved on Briga-

dier Townshend, who took all proper measures to complete the victory and to pursue the vanquished.

At the rear, to which he had been conveyed, Wolfe, meanwhile, lay expiring. From time to time he lifted his head to gaze on the field of battle, till he found his eyesight begin to fail. Then for some moments he lay motionless with no other sign of life than heavy breathing or a stifled groan. All at once an officer who stood by exclaimed, "See how they run!" — "Who run?" cried Wolfe, eagerly raising himself on his elbow. "The enemy," answered the officer; "they give way in all directions." — "Then God be praised!" said Wolfe, after a short pause; "I shall die happy." These were his last words; he again fell back, and turning on his side, as if by a sharp convulsion, expired. He was but thirty-three years of age, when thus — the Nelson of the army — he died amidst the tidings of the victory he had achieved.

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# PART VII

## ENGLAND UNDER THE GEORGES

### CHAPTER I

#### WALPOLE AND HIS SYSTEM

On the death of Queen Anne, in 1714, the Tory party were completely discomfited by the Whigs. The former were excluded from office and branded as Jacobites. The new king was made to feel that he owed his throne to the Whigs who crowded around him and identified their political enemies with traitors. The character of the king and his foreign interests led him to rely more and more on the victorious party and leave the management of domestic politics in their hands. It was under these circumstances that Walpole became First Lord of the Treasury and Chancellor of the Exchequer in 1721 and at the same time virtual master of the country through his support in Parliament, his influence with the king, his use of the appointments to government positions, and his corrupt practices. During his régime of nearly twenty years the foundations of party government and the cabinet system were so securely laid that later attempts to overthrow them failed. Though the life and work of Sir Robert Walpole have not been exhaustively treated by any modern writer, the student will find the brief biography by Mr. Morley, the statesman and brilliant man of letters, a suggestive and illuminating study, which gives a somewhat more favorable view of the practices of the former than is to be found in most other accounts.

### § 1. *Walpole and Eighteenth-century Statesmen*[1]

Is it true to say that Walpole was unscrupulous in his means for grasping power and keeping it? That he gave some advice without a blush which any leading English statesman to-day would readily rather extinguish his public life than give, is unfortunately too certain. Writers on morals tell us that conduct has an æsthetic and an ethical aspect; it is beautiful or ugly, as well as right or wrong. It is certain that, as some say, he had not the delicate sense of honor, which marks the ideal public man. But it cannot be disguised that many men have shown a want of a fine sense of honor, whom still we should hesitate to brand generally as either unscrupulous or unprincipled. Chatham acted in a way that was not at all to his honor, when he first offered to screen Walpole, and then on his offer being repulsed, redoubled the violence of his attack. George III did many shabby, cunning, and unscrupulous things, yet tradition is gradually coming to pass him off as a very honest gentleman. Did Mr. Pitt exhibit perfect delicacy of honor when, on coming back to power in 1804, he allowed the stubborn king to ostracize Mr. Fox? Yet Pitt is usually treated as the pink of moral elevation, and he did undoubtedly take a loftier view of the connection between public authority and private honor than had been the fashion before his time. The equity of history requires that we shall judge men of action by the standards of men of action. Nobody would single out highmindedness as one of Walpole's conspicuous attributes. It is not a very common attribute among active politicians in any age. On the other hand, Walpole was neither low-minded nor small-minded. His son had a right to boast that he never gave up the interests of his party to serve his own, though he often gave up his own opinions to please friends who were serving themselves. With the firmest confidence in himself, he was neither pragmatical nor arrogant. He was wholly free from spite and from envy; he bore no malice, though when he had once found a man out in playing tricks, he took care never to forget it; and he was right, for the issues at stake were too important to allow him to forget.

### § 2. *The Exclusion of Able Colleagues*

It is said that he could not brook a colleague of superior ability, and that he took care to surround himself with mediocrities like

[1] Morley, *Walpole*, pp. 116 ff. By permission of Rt. Hon. John Morley and The Macmillan Company, Publishers.





the Duke of Newcastle. We may test the accusation by the conduct of Chatham. Nobody has ever taunted him with this ignoble jealousy, yet he acted precisely as Walpole acted. After fighting against Newcastle as long as he could, he gave way to him just as Walpole had found it expedient to do. "I borrowed the Duke of Newcastle's majority," said Pitt in 1757, "to carry on the public business." It was his majority, not his mediocrity, that Walpole valued. So with the proscriptions. Pitt peremptorily excluded Henry Fox from his famous administration, though Fox was the ablest debater in Parliament; and he declined to advance Charles Townshend, who was more near to being his intellectual equal than anybody else then in the House of Commons. Neither in Pitt's case nor in Walpole's case is it necessary to ascribe their action to anything worse than the highly judicious conviction that whether in carrying out a great policy of peace like Walpole's, or an arduous policy of war like Pitt's, the very worst impediment that a minister can have is a colleague in his cabinet who spoils superior ability by perversities of restlessness and egotism. There is not one of the able men ostracized, as it is called, by Walpole whose political steadiness and personal fidelity he could safely trust; and not one of them, let us not forget to add, who, for fifteen years after his fall, ever showed himself any better able to work with other colleagues and leaders than he had been to work with Walpole.

### § 3. *Walpole not an Intriguer*

Walpole took the pleasures, the honors, the prizes of the world as they came in his way, and he thoroughly relished and enjoyed them; but what his heart was seriously set upon all the time — seriously, persistently, strenuously, devotedly — was the promotion of good government and the frustration and confusion of its enemies. When men got in his way, he thrust them aside, without misgiving or remorse, just as a commander in the field would remove a meddling, wrong-headed, or incompetent general of division without remorse. But to be remorseless is a very different thing from being unscrupulous. I am not aware of a single proof that Walpole ever began those intrigues against his enemies which they were always so ready to practise against him. It was Stanhope and Sunderland, not Walpole, who began and carried out the intrigues that ended in the schism of 1717. It was Carteret who caballed with the Tory leaders against his own colleagues

after Sunderland's death. It was Bolingbroke and the Duchess of Kendal who strove by underhand arts to procure access for the former to George I, and when Walpole found out what was going on, he at once boldly urged the king to grant Bolingbroke his audience, and to hear all that he had to say. It was Chesterfield who tried to set up a clique against Walpole within his own ministry. Much is made of the case of Townshend. But it is rather a paradox to prove Walpole's imperious refusal to share power with able colleagues by referring us to Townshend, with whom he worked in unbroken cordiality for the best part of thirty years and with whom he did loyally share power, himself in a relation rather subordinate than otherwise, for three of these years. It was Townshend, moreover, who at the last took advantage of his journey with the king to Hanover secretly to ingratiate himself in the royal favor to the disadvantage of Walpole at home. Plenty of intriguing was carried on, but not by Walpole. A candid and particular examination of the political history of that time, so far as the circumstances are known to us, leads to the conclusion that of all his contemporaries, from men of genius like Bolingbroke and Carteret, from able and brilliant men like Townshend and Chesterfield, Wyndham, and Pulteney, down to a mediocre personage like the Duke of Newcastle, Walpole was the least unscrupulous of the men of that time, the most straightforward, bold, and open, and the least addicted to scheming and cabal. He relied more than they did, not less, upon what after all in every age is the only solid foundation of political power, though it may not always lead to the longest term of office — upon his own superior capacity, more constant principle, firmer will, and clearer vision.

### § 4. *The Charge of Parliamentary Corruption*

That Walpole practised what would now be regarded as Parliamentary corruption is undeniable. But political conduct must be judged in the light of political history. Not very many years before Walpole a man was expected to pay some thousands of pounds for being made Secretary of State, just as down to our own time he paid for being made colonel of a regiment. Many years after Walpole, Lord North used to job the loans, and it was not until the younger Pitt set a loftier example that any minister saw the least harm in keeping a portion of a public loan in his own hands for distribution among his private friends. For the minister to buy the vote of a member of Parliament was not then thought much





more shameful than almost down to our own time it has been thought shameful for a member of Parliament to buy the vote of an elector. Is it a greater sin against political purity to give a member five hundred pounds for his vote than to advance three thousand for the purchase of his seat? Yet even the austere Pitt laughed, as Walpole might have laughed at what he called the squeamish and maiden coyness of the House of Commons, in hesitating to admit the right of the owners of rotten boroughs to be compensated for the disfranchisement of their property. It is absurd to suppose that Walpole first tempted mankind into rapacity and selfishness. Even his enemies admitted that corruption had been gaining ground ever since the time of Charles II. Nobody denies that in all its forms, the venality alike of members and constituencies was vastly worse thirty years after Walpole's disappearance than anybody ever asserted it to be in his time. To say, with some modern writers, that Walpole organized corruption as a system, that he made corruption the normal process of Parliamentary government, that he governed by means of an assembly which was saturated with corruption, is to use language enormously in excess of any producible evidence and of all legitimate inference. It is to attach a weight to the furious and envenomed diatribes of the *Craftsman*, to which the very violence of their language shows them not to be entitled. With unanswerable force it has been asked by Sir Robert Peel and other men of experience in public affairs, how it came about that if Walpole did really corrupt his age, and if the foundation of his strength was the systematic misapplication of the public money to the purposes of bribery, yet a select committee of twenty-one members — nineteen of them his bitter enemies — appointed after his fall to lay a siege to his past life equal in duration to the siege of Troy, produced no specific facts to support the allegations of bribery which had been used every week and every day for so many years to inflame public resentment against him? Two of the great heads of accusation shrunk up to miserable dimensions and the third remained a matter of vague and unsupported inference. Would so lame and impotent a conclusion have been possible if substantial grounds for the accusation had been in existence?

The charge of undue influence at elections ended in the production of a mere mouse from the laboring mountain. Walpole appears to have promised the mayor a place in the revenue service at Weymouth, in order to secure a returning officer of the right color; to have removed some customs officers who declined to

vote for the right candidate, and to have disbursed some petty sums for legal proceedings in boroughs. We find nothing like the lavish purchase of boroughs that was practised wholesale by George III, and which explains the vast debts that loaded the civil list of a king who was personally the most frugal of men. Lord North thought nothing of paying Lord Edgcumbe £15,000 for his boroughs, or buying three seats from Lord Falmouth for £7500, though the bargain nearly went off because he would not make the pounds guineas. Walpole never approached such a scale as this.

### § 5. *Peculation and Secret Service Money*

Nor, again, did the article of conceding fraudulent contracts produce any more appalling disclosure than that in the single case of a not very large contract for payment of troops in Jamaica the terms had been suspiciously handsome. Finally, the grand accusation of peculation and profusion in the expenditure of the secret-service money can be placed no higher than a doubtful inference from a doubtful figure. The committee founded their case on the amount of the secret-service money. That amount they pronounced to be so excessive that it could only be explained by a corrupt and improper destination. They took a period for the purposes of comparison, at their own will and pleasure. The secret-service money during the ten years from 1707 to 1717 only amounted to £338,000. The same head under Walpole's administration from 1731 to 1741 was no less than £1,440,000. Therefore, they argued — and modern writers are content with their argument — a large proportion of the immense expenditure of secret-service money in Walpole's government was devoted to the direct purchase of members of Parliament. The premiss, we repeat, can only be accepted with qualifications; next, even if the premiss be taken as offering a precisely just and accurate comparison, the desired conclusion does not necessarily or even reasonably follow from it. The ten years from 1707 to 1717 were arbitrarily chosen; if the first ten years of Anne or of George I had been taken, the figure would have been much higher, and therefore more favorable to Walpole. The items of the account, moreover, are taken in one way, in order to attenuate the figure of the first period, and in another way, when the object is to expand the figure of the second period; certain payments were charged to the secret-service fund in the one case, which in the other case had either not





been made or else had gone to another account. The comparative statement is, therefore, fallacious. Fairly measured, this branch of expenditure, so far as it covered a really secret employment of money which it would be against the interest of the public service to disclose, amounted during ten years of Walpole's administration to less than an annual average of £79,000; and that, according to Coxe, is much less than the sum expended for similar purposes during a similar term of years before the Revolution.

Let us, however, suppose that the amount was even higher than this. Why are we to assume as a matter of course that most of it was spent in buying members or boroughs, rather than in the avowed objects of buying secret intelligence both at home and from abroad, and in buying foreign ministers? It is certain that Walpole was always singularly well informed as to the designs of foreign courts. There were also people at home on whom it was necessary to keep a still more vigilant eye. The designs of Jacobite plotters were obscurer and more intricate than the diplomatic manœuvres of Madrid, Vienna, or Versailles. Walpole was wisely willing to pay handsomely for good information about them. It was said of him that while he was profuse to his friends, his liberality was literally unbounded to his tools and his spies. Even in our day, no British minister has ventured to dispense with services of this odious kind, and every minister still very properly refuses to account to Parliament or to any auditor for a shilling of it. That some of this money went in bribes to members of Parliament, it would be childish to deny. We shall presently come upon an instance where £900 was paid to two members of the House of Commons for their support. Let us take that as incontrovertible. But it goes a very little way towards the broad accusation that we are examining. The very fact that the king grumbled loudly at the transaction which cost no more than £900, shows that such transactions did not usually mount up to a very large proportion of one £144,000 a year. The one detailed case, therefore, that can be adduced to support the assumption that most of the secret-service money at Walpole's disposal went in Parliamentary corruption, itself shows that the assumption is altogether exaggerated and extravagant. The figures prove too much. We may admit that the gentlemen who had taken Walpole's money would be likely to hold their peace about it, and we know that those who paid the money were authorized by the king to refuse to give evidence. Yet when all allowance has been made for these facts, considering how many scores of men must have

been secured, what enormous sums on the hypothesis must have passed, and how passionately ready the great majority of the committee were to procure evidence good or bad at any price, it is surely incredible that, if corruption had been practised on anything approaching to the vast and systematic scale which is so loosely imputed, not one single case should have been forthcoming.

### § 6. *The Spoils of Office*

The substance of the charge of corruption is to be sought, not in occasional payment of blackmail to a member or a patron, but in the fact that he reserved the crown patronage down to the last morsel, exclusively for members of his own party. He acted on the principle that is accepted in the United States, that is not disavowed in France, and that, although disavowed in Great Britain, has not even yet wholly disappeared there. A member of Parliament who desired anything, from a lucrative office for himself down to a place as tide-waiter for the son of a tenant, knew that his only chance would be to support the administration. The number of offices held by men in Parliament was very great. When Burke introduced his famous scheme of economical reform (1780), he boasted that it would destroy influence equal to the offices of at least fifty members of Parliament. In Walpole's time the number of place holders at the pleasure of the court must have been considerably in excess of fifty; for the place bill of 1743 had excluded a certain number of subordinate personages from seats in Parliament. Walpole insisted that all these gentlemen should be sound Whigs. To that extent, acting especially on the owners of boroughs, he systematically affected the disinterestedness and independence of the House of Commons.

### § 7. *The Price of Men*

Walpole has no doubt suffered much in the opinion of posterity as the supposed author of the shallow and cynical apophthegm, that "every man has his price." People who know nothing about Walpole believe and repeat this about him. Yet the story is a pure piece of misinterpretation. He never delivered himself of that famous slander on mankind. One day, mocking the flowery and declamatory professions of some of the patriots in opposition, he insisted on finding self-interest or family interest at the bottom of their fine things. "All these men," he said, "have

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and proportion of corruption in Walpole's management of members is to be gathered from what he did to secure the rejection of the bill for lowering the interest on the funds. He got time enough, says Hervey, "to go about to talk to people, to solicit, to intimidate, to argue, to persuade, and perhaps to bribe." This may be taken as a fair example of his usual practice. Bribery was an expedient in the last resort, and the appeal to cupidity came after appeals to friendship, to fear, to reason, and to all those mixed motives, creditable, permissible, and equivocal, which guide votes in reformed and unreformed Parliaments alike.

### § 9. *Walpole's Private Affairs*

The pecuniary affairs of public men are no concern of the outside world, unless they are tainted with improbity. So many charges were made against Walpole under this head, that it is necessary to glance at them. I shall begin with the least serious. Very early in his career of minister Walpole was taunted with abusing his patronage by granting places and reversions of places to his relatives. When his son Horace was little more than a child, he was made Clerk of the Estreats and Controller of the Pipe, with a salary of £300 a year. At the age of eighteen or nineteen, he became Inspector of Customs; on resigning that post a year later, he was made Usher of the Exchequer, then worth £900 a year; and Horace Walpole was able to boast that from the age of twenty he was no charge to his family. The duty of the usher was to furnish paper, pens, ink, wax, sand, tape, penknives, scissors, and parchment to the Exchequer, and the profits rose from £900 a year to an average of double that amount. The post of Collector of the Customs, worth nearly £2000 a year, was granted to Walpole himself, and for the lives of Robert and Edward his sons. The bulk of the proceeds of this patent he devised to his son Horace. In 1721 the minister made his eldest son Clerk of the Pells, with three thousand a year; and in 1739 he gave him the gigantic prize of Auditor of the Exchequer, with a salary of seven thousand. Then when the eldest son resigned the pells on receiving the auditorship, the pells and the three thousand a year went to Edward Walpole, the next brother. All these great patent offices were sinecures; they were always executed by deputy; the principal had not a week's work to do from the first annual quarter day to the last. We can imagine how these rank abominations would stink in the nostrils of the House of Commons

and the Treasury to-day. Yet it is worth remembering that Burke, when he proposed his famous plan of economical reform (1780), though he admitted that the magnitude of the profits in the great patent offices called for reformation, still looked with complacency on an exchequer list filled with the descendants of the Walpoles, the Pelhams, and the Townshends, and maintained the expediency of these indirect provisions for the families of great public servants. Indirect rewards have long disappeared, and nothing is more certain than that the whole system of political pension, even as a direct and personal reward, is drawing to an end. Whether either the purity or the efficiency of political service will gain by the change is not so certain. Walpole at least can hardly be censured for doing what, in the very height of his zeal for reform, Burke seriously and deliberately defended.

Abuse of patronage, however, was the least formidable of the charges that descended year after year in a storm on Walpole's head. He was roundly and constantly charged with sustaining a lavish private expenditure by peculation from public funds. The palace which he built for himself in Norfolk was matter for endless scandal. He planted gardens, people said, in places to which the very earth had to be transported in wagons. He set fountains flowing and cascades tumbling, where water was to be conveyed by long acqueducts and costly machines. He was a modern Sardanapalus, imitating the extravagance of Oriental monarchs at the expense of a free people whom he was at once impoverishing and betraying. They described him as going down to his country seat loaded with the spoils of an unfortunate nation. He had purchased most of the county of Norfolk, and held at least one-half of the stock of the Bank of England. It was plainly hinted that in view of a possible impeachment at some future day, he had made himself safe by investing £150,000 in jewels and plate as an easily portable form of wealth. He had also secretly despatched £400,000 in a single year to bankers at Amsterdam, Vienna, Genoa, to be ready for him in case of untoward accidents.

These lively fabrications undoubtedly represented the common rumor and opinion of the time, and were excellently fitted to nourish the popular dislike with which Walpole came to be regarded. They had their origin in the same suspicious temper toward an unpopular minister, which two generations before had made the people of London give to Clarendon's new palace in Piccadilly the name of Dunkirk House, and which a generation later prompted the charge that Lord Bute's great house and park at Luton had

come out of the bribes of France. They had hardly more solid foundation than the charge of saturating Parliament with corruption. The truth seems to be that Walpole, like both the Pitts, was inexact and careless about money. Profusion was a natural element in a large, loose, jovial character like his, too incessantly preoccupied with business, power, government, and high affairs of State to have much regard for a wise private economy. He was supposed to contribute handsomely toward the expense of fighting elections. He expended in building, adding, and improving at Houghton the sum of £200,000. He built a lodge in Richmond Park at a cost of £14,000. His famous hunting congresses are said to have come to £3000 a year — rather a moderate sum, according to the standard of to-day, for keeping open house for a whole county for several weeks in a vast establishment like Houghton. His collection of pictures was set down by Horace Walpole as having cost him £40,000 more; but this I suspect to be a very doubtful figure, for according to a contemporary letter in Nichol's *Literary Anecdotes*, so many of the pictures were presents, that the whole cost could hardly have reached £30,000; and it is worth noting that the famous Guido, the gem of the collection, while it cost him some £600, was valued in the catalogue when it came to be sold to the Czarina at £3500. For all this outlay, his foes contended that the income of his estate and the known salary of his offices were inadequate. They assumed, therefore, that the requisite funds were acquired by the sale of honors, places, and pensions, and by the plunder of the secret-service money.

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## CHAPTER II

### JOHN WESLEY AND METHODISM

IT is generally admitted by historians that the religious life of the early part of the eighteenth century was marked by indifference and scepticism. Clergymen in the Established and Dissenting churches emphasized the intellect rather than the feelings in religion; heated theological controversies and polemical pamphleteering fell out of fashion; instead of revelation or authority alone, theologians emphasized reason as the guide to religious truth. Voltaire, who had been in England, described an English sermon of the age as a "solid but sometimes dry dissertation which a man reads to the people without gesture and without particular exaltation of the voice." Another French visitor, Montesquieu, declared that there was no religion in England, and that the mention of it excited laughter. Even a distinguished bishop of the Church, Berkeley, wrote that cold indifference for all matters of faith and divine worship was thought good sense, and that it was so fashionable to deny religion that a good Christian could hardly keep himself in countenance when it was mentioned. Though the religion of an age is difficult to measure and these sweeping statements of contemporaries must be taken with caution, there can be no doubt that, as a vital force in the lives of men, religion was at a very low ebb. The lower classes were often coarse and brutal in their habits, and they do not seem to have been reached by the ordinary sermons. It was under such conditions that there originated in England a religious awakening that was destined to become one of the most powerful movements in the history of Christianity. Many accounts have been written about this movement and its founders, but most of them have been seriously biassed

by the convictions of the authors. A very fair view is to be found in Mr. Lecky's great work on the eighteenth century.

### § 1. *John Wesley and the Oxford Group*[1]

The Methodist movement was a purely religious one. All explanations which ascribe it to the ambition of its leaders, or to merely intellectual causes, are at variance with the facts of the case. The term Methodist was a college nickname bestowed upon a small society of students at Oxford, who met together between 1729 and 1735 for the purpose of mutual improvement. They were accustomed to communicate every week, to fast regularly on Wednesdays and Fridays, and on most days during Lent, to read and discuss the Bible in common, to abstain from most forms of amusement and luxury, and to visit sick persons and prisoners in the jail.

John Wesley, the master spirit of this society, and the future leader of the religious revival of the eighteenth century, was born in 1703, and was the second surviving son of Samuel Wesley, the rector of Epworth, in Lincolnshire. His father, who had early abandoned Non-conformity, and acquired some reputation by many works both in prose and verse, had obtained his living from the government of William, and had led for many years a useful and studious life, maintaining a far higher standard of clerical duty than was common in his time. His mother was the daughter of an eminent Non-conformist minister, who had been ejected in 1662, and was a woman of rare mental endowments, of intense piety, and of a strong, original, and somewhat stern character. Their home was not a happy one. Discordant dispositions and many troubles darkened it. The family was very large. Many children died early. The father sank slowly into debt. His parishioners were fierce, profligate, and recalcitrant. When John Wesley was only six years old the rectory was burnt to the ground, and the child was forgotten among the flames, and only saved at the last moment by what he afterward deemed an extraordinary Providence. All these circumstances doubtless deepened the natural and inherited piety for which he was so remarkable, and some strange and unexplained noises which during a long period were heard in the rectory, and which its inmates concluded to be

[1] Lecky, *History of England in the Eighteenth Century*, Cabinet Edition, Vol. III, pp. 37 ff. By permission of D. Appleton & Company, Publishers.

supernatural, contributed to that vein of credulity which ran through his character.

He was sent to the Charterhouse, and from thence to Oxford, where at the age of twenty-three he was elected fellow of Lincoln. He had some years before acquired from his brother a certain knowledge of Hebrew, and he was speedily distinguished by his extraordinary logical powers, by the untiring industry with which he threw himself into the studies of the place, and above all by the force and energy of his character. His religious impressions, which had been for a time somewhat obscured, revived in their full intensity while he was preparing for ordination in 1725. He was troubled with difficulties, which his father and mother gradually removed, about the damnatory clauses in the Athanasian Creed, and about the compatibility of the Articles with his decidedly Arminian views concerning election, and he was deeply influenced by the *Imitation* of Thomas à Kempis, by the *Holy Living and Dying* of Jeremy Taylor, and by Law's *Serious Call*. His life at Oxford became very strict. He rose every morning at four, a practice which he continued until extreme old age. He made pilgrimages on foot to William Law to ask for spiritual advice. He abstained from the usual fashion of having his hair dressed, in order that he might give the money so saved to the poor. He refused to return the visits of those who called on him, that he might avoid all idle conversation. His fasts were so severe that they seriously impaired his health, and extreme abstinence and gloomy views about religion are said to have contributed largely to hurry one of the closest of his college companions to an early and clouded death.

The society hardly numbered more than fifteen members, and was the object of much ridicule at the university; but it included some men who afterward played considerable parts in the world. Among them was Charles, the younger brother of John Wesley, whose hymns became the favorite poetry of the sect, and whose gentler, more submissive, and more amiable character, though less fitted than that of his brother for the great conflicts of public life, was very useful in moderating the movement, and in drawing converts to it by personal influence. Charles Wesley appears to have originated the society at Oxford; he brought Whitefield into its pale, and besides being the most popular poet he was one of the most persuasive preachers of the movement.

There too, above all, was George Whitefield, in after years the greatest pulpit orator of England. He was born in 1714, in

Gloucester, in the Bell Inn, of which his mother was proprietor, and where upon the decline of her fortunes he was for some time employed in servile functions. He had been a wild, impulsive boy, alternately remarkable for many mischievous pranks and for strange outbursts of religious zeal. He stole money from his mother, and he gave part of it to the poor. He early declared his intention one day to preach the Gospel, but he was the terror of the Dissenting minister of his neighborhood, whose religious services he was accustomed to ridicule and interrupt. He bought devotional books, read the Bible assiduously, and on one occasion, when exasperated by some teasing, he relieved his feelings, as he tells us, by pouring out in his solitude the menaces of the 118th Psalm; but he was also passionately fond of card-playing, novel-reading, and the theatre, he was two or three times intoxicated, and he confesses with much penitence "to a sensual passion" for fruits and cakes. His strongest natural bias was toward the stage. He indulged it on every possible occasion, and at school he wrote plays and acted in a female part.

Owing to the great poverty of his mother he could only go to Oxford as a servitor, and his career there was a very painful one. Thomas à Kempis, Drelincourt's *Defence against Death*, and Law's devotional works had all their part in kindling his piety into a flame. He was haunted with gloomy and superstitious fancies, and his religion assumed the darkest and most ascetic character. He always chose the worst food, fasted twice a week, wore woollen gloves, a patched gown, and dirty shoes, and was subject to paroxysms of a morbid devotion. He remained for hours prostrate on the ground in Christ's Church walk in the midst of the night, and continued his devotions till his hands grew black with cold. One Lent he carried his fasting to such a point that when Passion Week arrived he had hardly sufficient strength to creep upstairs, and his memory was seriously impaired. In 1733 he came in contact with Charles Wesley, who brought him into the society. To a work called *The Life of God in the Soul of Man*, which Charles Wesley put into his hands, he ascribed his first conviction of that doctrine of free salvation which he afterward made it the great object of his life to teach. . . .

### § 2. *The Conversion of John Wesley*

[At the invitation of General Oglethorpe, John Wesley left Oxford in 1737 to go out as pastor and missionary to the former's

colony of Georgia, recently established as a refuge for imprisoned debtors and unfortunate classes of Europe. He was sadly disappointed with the Indians whom he hoped to convert, declaring them to be "gluttons, thieves, dissemblers, and liars." Moreover his work with the colonists was not altogether successful, and he returned to England after a stay of two years. For sometime afterward he was sorely troubled by what seemed to him the inadequacy of his religion, and longed for "that faith which none can have without knowing that he hath it."]

This condition could not last long. At length, on May 24, — a day which he ever after looked back upon as the most momentous in his life, — the cloud was dispelled. Early in the morning, according to his usual custom, he opened the Bible at random, seeking for a Divine guidance, and his eye lighted on the words, "There are given unto us exceeding great and precious promises, even that ye should be partakers of the Divine nature." Before he left the house he again consulted the oracle, and the first words he read were, "Thou art not far from the kingdom of God." In the afternoon he attended services in St. Paul's Cathedral, and the anthem, to his highly wrought imagination, seemed a repetition of the same hope. The sequel may be told in his own words. "In the evening I went very unwillingly to a society in Aldersgate Street, where one was reading Luther's preface to the Epistle to the Romans. About a quarter before nine, while he was describing the change which God works in the heart through faith in Christ, I felt my heart strangely warmed, I felt I did trust in Christ, Christ alone, for salvation, and an assurance was given me that he had taken away my sins, even mine, and saved me from the law of sin and death. I began to pray with all my might for those who had in a more especial manner despitefully used me and persecuted me. I then testified openly to all, what I now first felt in my heart." . . .

### § 3. *The Methodist Missionaries at Work*

Having rid himself of harassing doubts on cardinal points of his religious faith, John Wesley became a fervent preacher, emphasizing salvation through faith in Christ, personal relations of believer and God, and definite conversion. He preached in the churches which were open to him and soon roused violent opposition by the fervor of his declamation. He was soon joined by

Whitefield and his brother Charles Wesley, and the three, with the followers who soon gathered about them, began the Herculean task of rousing all England to a new interpretation of religious life.

The leaders of the movement became the most active of missionaries. Without any fixed parishes they wandered from place to place, proclaiming their new doctrine in every pulpit to which they were admitted, and they speedily awoke a passionate enthusiasm and a bitter hostility in the Church. Nothing, indeed, could appear more irregular to the ordinary parochial clergyman than these itinerant ministers, who broke away violently from the settled habits of their profession, who belonged to and worshipped in small religious societies that bore a suspicious resemblance to conventicles, and whose whole tone and manner of preaching were utterly unlike anything to which he was accustomed. They taught, in language of the most vehement emphasis, as the cardinal tenet of Christianity, the doctrine of a new birth in a form which was altogether novel to their hearers. They were never weary of urging that all men are in a condition of damnation who have not experienced a sudden, violent, and supernatural change, or of inveighing against the clergy for their ignorance of the very essence of Christianity.

"Tillotson," in the words of Whitefield, "knew no more about true Christianity than Mahomet." *The Whole Duty of Man*, which was the most approved devotional manual of the time, was pronounced by the same preacher, on account of the stress it laid upon good works, to have "sent thousands to hell." The Methodist preacher came to an Anglican parish in the spirit, and with the language, of a missionary going to the most ignorant heathen; and he asked the clergyman of the parish to lend him his pulpit, in order that he might instruct the parishioners — perhaps for the first time — in the true Gospel of Christ. It is not surprising that the clergy should have resented such a movement, and the manner of the missionary was as startling as his matter. The sermons of the time were, as I have said, almost always written, and the prevailing taste was cold, polished, and fastidious.

The new preachers preached extempore, with the most intense fervor of language and gesture, and usually with a complete disregard of the conventionalities of their profession. Wesley frequently mounted the pulpit without even knowing from what text he would preach, believing that when he opened the Bible at random the Divine Spirit would guide him infallibly in his choice. The oratory of Whitefield was so impassioned that the preacher was

sometimes scarcely able to proceed for his tears, while half the audience were convulsed with sobs. The love of order, routine, and decorum, which was the strongest feeling in the clerical mind, was violently shocked. The regular congregation was displaced by an agitated throng, who had never before been seen within the precincts of the Church. The usual quiet worship was disturbed by violent enthusiasm or violent opposition, by hysterical paroxysms of devotion or remorse, and when the preacher had left the parish he seldom failed to leave behind him the elements of agitation and division. . . .

The success of Methodism depended upon the zeal and abilities of its leaders, upon the evangelical doctrines which they had revived, and which were peculiarly fitted to exercise a deep influence upon the people, and upon the institution of field-preaching, which brought those doctrines before vast multitudes who had scarcely before come into any contact with religion. The great difficulty was the small number of the teachers and the general hostility of the clergy, but this was remedied in the beginning of 1741 by the institution of lay preachers. Nelson and Maxfield were the two earliest. They had begun preaching in the preceding year without authorization and apparently without concert, under the impulse of an overpowering missionary enthusiasm; and it was only very reluctantly, and chiefly in obedience to the advice of his mother, that Wesley consented to sanction the step.

From the time of the institution of lay preachers, Methodism became in a great degree independent of the Established Church. Its chapels multiplied in the great towns, and its itinerant missionaries penetrated to the most secluded districts. They were accustomed to preach in fields and gardens, in streets and lecture-rooms, in market-places and churchyards. On one occasion we find Whitefield at a fair mounting a stage which had been erected for some wrestlers, and there denouncing the pleasures of the world; on another, preaching among the mountebanks at Moorfields; on a third, attracting around his pulpit ten thousand of the spectators at a race course; on a fourth, standing beside the gallows at an execution to speak of death and of eternity. Wesley, when excluded from the pulpit of Epworth, delivered some of his most impressive sermons in the churchyard, standing on his father's tomb. Howell Harris, the apostle of Wales, encountering a party of mountebanks, sprang into their midst exclaiming in a solemn voice "Let us pray," and then proceeded to thunder forth the judgments of the Lord. Rowland Hill was accustomed to visit

the great towns on market-day in order that he might address the people in the market-place, and to go from fair to fair preaching among the revellers from his favorite text, "Come out from among them."

### § 4. *Opposition to the Missionaries*

In this manner the Methodist preachers came in contact with the most savage elements of the population, and there were few forms of mob violence they did not experience. In 1741 one of their preachers named Seward, after repeated ill-treatment in Wales, was at last struck on the head while preaching at Monmouth, and died of the blow. In a riot, while Wheatley was preaching at Norwich, a poor woman with child perished from the kicks and blows of the mob. At Wednesbury — a little town in Staffordshire — then very famous for its cock fights, numerous houses were wrecked, the Methodists were stoned, beaten with cudgels, or dragged through the public kennels. Women were atrociously abused. The leaders of the mob declared their intention to destroy every Methodist in the county. Wesley himself appeared in the town, and the rioters speedily surrounded the house where he was staying. With the placid courage that never deserted him in danger, he descended alone and unarmed into their midst. His perfect calmness and his singularly venerable appearance quelled the most noisy, and he succeeded by a few well-chosen words in producing a sudden reaction. His captors, however, insisted on his accompanying them to a neighboring justice, who exhorted them to disperse in peace. The night had now fallen, and Wesley was actually returning to Wednesbury protected by a portion of the very crowd which had attacked him, when a new mob poured in from an adjoining village. He was seized by the hair and dragged through the streets. Some struck at him with cudgels. Many cried to knock out his brains and kill him at once. A river was flowing near, and he imagined that they would throw him into the water. Yet in that dreadful moment his self-possession never failed him. He uttered in loud and solemn tones a prayer to God. He addressed those who were nearest him with all the skill that a consummate knowledge of the popular character could supply, and he speedily won over to his side some of the most powerful of the leaders. Gradually the throng paused, wavered, divided; and Wesley returned almost uninjured to his house. To a similar courage he owed his life at Bolton, when the house where he was





preaching was attacked, and at last burst open, by a furious crowd thirsting for his life. Again and again he preached, like the other leaders of the movement, in the midst of showers of stones or tiles or rotten eggs. The fortunes of his brother were little different. At Cardiff, when he was preaching, women were kicked and their clothes set on fire by fire-works. At St. Ives and in the neighboring villages the congregations were attacked with cudgels, and everything in the room where they were assembled was shattered to atoms. At Devizes a water engine played upon the house where he was staying. His horses were seized. The house of one of his supporters was ransacked, and bull dogs were let loose upon him. At Dublin Whitefield was almost stoned to death. At Exeter he was stoned in the very presence of the bishop. At Plymouth he was violently assaulted and his life seriously threatened by a naval officer. . . .

### § 5. *Methodism and Worldly Things*

In the intense religious enthusiasm that was generated, many of the ties of life were snapped in twain. Children treated with contempt the commands of their parents, students the rules of their colleges, clergymen the discipline of their Church. The whole structure of society, and almost all the amusements of life, appeared criminal. The fairs, the mountebanks, the public rejoicings of the people, were all Satanic. It was sinful for a woman to wear any gold ornament or any brilliant dress. It was even sinful for a man to exercise the common prudence of laying by a certain portion of his income. When Whitefield proposed to a lady to marry him, he thought it necessary to say, "I bless God, if I know anything of my own heart, I am free from that foolish passion which the world calls love. I trust I love you only for God, and desire to be joined to you only by His commands, and for His sake." It is perhaps not very surprising that Whitefield's marriage, like that of Wesley, proved very unhappy. Theatres and the reading of plays were absolutely condemned, and Methodists employed all their influence with the authorities to prevent the erection of the former. It seems to have been regarded as a divine judgment that once, when *Macbeth* was being acted at Drury Lane, a real thunderstorm mingled with the mimic thunder in the witch scene. Dancing was, if possible, even worse than the theatre. "Dancers," said Whitefield, "please the devil at every step," and it was said that his visit to a town usually put "a stop to the dancing-school,

the assemblies, and every pleasant thing." He made it his mission to "bear testimony against the detestable diversions of this generation," and he declared that no "recreations, considered as such, can be innocent." A poor Kingswood collier was noted for his skill in playing the violin. He passed under Methodist influence, and at once consigned his instrument to the flames. Wesley was a man of powerful intellect and cultivated taste, yet we find him objecting to the statues at Stourton, among other reasons, "because I cannot admire the images of devils; and we know the gods of the heathens are but devils," and his only comment upon the treasures of art and nature recently amassed in the British Museum was "What account will a man give to the Judge of quick and dead for a life spent in collecting all these?" But perhaps the most striking illustration of this side of Methodist teaching is furnished by the rules he drew up for the school which he founded at Kingswood. The little children rose every morning, winter and summer, at four, and were directed in the first place to spend nearly an hour in private devotions. "As we have no playdays," he adds, "the school being taught every day in the year but Sunday, so neither do we allow any time for play on any day; he that plays when he is a child will play when he is a man." . . .

### § 6. *Wesley and Supernaturalism*

In all matters relating to Satanic interference, Wesley was especially credulous. The abolition of the laws against witchcraft, which closed the fountain of an incalculable amount of undeserved suffering, would probably not have taken place without a violent struggle if the Methodist movement had had an earlier development. Wesley again and again reiterated, with the utmost emphasis, his belief in witchcraft, and again and again attributed its downfall to religious scepticism. "It is true likewise," he wrote, "that the English in general, and indeed most of the men of learning in Europe, have given up all accounts of witches and apparitions as mere old wives' fables. I am sorry for it, and I willingly take this opportunity of entering my solemn protest against this violent compliment which so many that believe the Bible pay to those who do not believe it. I owe them no such service. I take knowledge that these are at the bottom of the outcry which has been raised, and with such insolence spread throughout the nation, in direct opposition not only to the Bible, but to the suffrages of

the wisest and best men of all ages and nations. They well know (whether Christians know it or not) that the giving up witchcraft is in effect giving up the Bible. I cannot give up to all the Deists in Great Britain the existence of witchcraft till I give up the credit of all history, sacred and profane." He had no doubt that the physical contortions into which so many of his hearers fell were due to the direct agency of Satan, who tore the converts as they were coming to Christ. He had himself seen men and women who were literally possessed by devils; he had witnessed forms of madness which were not natural, but diabolical, and he had experienced in his own person the hysterical affections which resulted from supernatural agency.

On the other hand, if Satanic agencies continually convulsed those who were coming to the faith, divine judgments as frequently struck down those who opposed it. Every illness, every misfortune that befell an opponent was believed to be supernatural. Molther, the Moravian minister shortly after the Methodists had separated from the Moravians, was seized with a passing illness. "I believe," wrote Wesley, "it was the hand of God that was upon him." Numerous cases were cited of sudden and fearful judgments which fell upon the adversaries of the cause. A clergyman at Bristol, standing up to preach against the Methodists, "was suddenly seized with a rattling in his throat, attended with a hideous groaning," and on the next Sunday he died. At Todmorden a minister was struck with a violent fit of palsy immediately after preaching against the Methodists. At Enniscorthy a clergyman, having preached for some time against the Methodists, deferred the conclusion of his discourse to the following Sunday. Next morning he was raging mad, imagined that devils were about him, "and not long after, without showing the least sign of hope, he went to his account." At Kingswood a man began a vehement invective against Wesley and Methodism. "In the midst he was struck raving mad." A woman, seeing a crowd waiting for Wesley at a church door, exclaimed, "They are waiting for their God." She at once fell senseless to the ground and next day expired. "A party of young men rowed up to Richmond to disturb the sermons of Rowland Hill. The boat sank and all of them were drowned." At Sheffield the captain of a gang who had long troubled the field preachers was bathing with his companions. "Another dip," he said, "and then for a bit of sport with the Methodists." He dived, struck his head against a stone, and appeared no more. . . .

### § 7. *Wesley as a Man*

Few things in ecclesiastical history are more striking than the energy and the success with which John Wesley propagated his opinions. He was gifted with a frame of iron and with spirits that never flagged. "I do not remember," he wrote, when an old man, "to have felt lowness of spirits for a quarter of an hour since I was born." He was accustomed to attribute, probably with much reason, to his perpetual journeys on horseback, the almost superhuman flow of health and vigor which he enjoyed. He lived eighty-seven years, and continued his efforts to the very close. He rose long before daybreak. He preached usually at five o'clock in the morning. When he was eighty-five he once delivered more than eighty sermons in eight weeks. In the very last year of his life he went on a missionary journey to Scotland, and on one occasion travelled seventy miles in a single day. During the greater part of his career, he was accustomed to preach about 800 sermons a year, and it was computed that in the fifty years of his itinerant life he travelled a quarter of a million of miles, and preached more than 40,000 sermons. Like Whitefield, he had the power of riveting the attention of audiences of 8000, 10,000, and sometimes even 20,000 souls, and, like Whitefield, a great part of his success depended on the topics he habitually employed; but in other respects his sermons bore no resemblance to the impassioned harangues of his great colleague. His style was simple, terse, colloquial, abounding in homely images, characterized above all things by its extreme directness, by the manifest and complete subordination of all other considerations to the one great end of impressing his doctrines on his hearers, animated by a tone of intense and penetrating sincerity that found its way to the hearts of thousands. He possessed to the highest degree that controlled and reasoning fanaticism which is one of the most powerful agents in moving the passions of men. While preaching doctrines of the wildest extravagance, while representing himself as literally inspired, and his hearers as surrounded by perpetual miracles, his manner and his language were always those of a scholar and a gentleman, — calm, deliberate, and self-possessed. He was always dressed with a scrupulous neatness. His countenance, to the very close of his life, was singularly beautiful and expressive, and in his old age his long white hair added a peculiar venerableness to his appearance. Great natural knowledge of men, improved by

extraordinary experience, gave him an almost unrivalled skill in dealing with the most various audiences, and the courage with which he never failed to encounter angry mobs, as well as the quiet dignity of manner which never forsook him, added greatly to the effects of his preaching.

His administrative powers were probably still greater than his power as a preacher. Few tasks are more difficult than the organization into a permanent body of half-educated men, intoxicated with the wildest religious enthusiasm, believing themselves to be all inspired by the Holy Ghost, and holding opinions that run perilously near the abyss of Antinomianism. Wesley accomplished the task with an admirable mixture of tact, firmness, and gentleness, and the skill with which he framed the Methodist organization is sufficiently shown by its later history. Like all men with extraordinary administrative gifts, he had a great love of power, and this fact renders peculiarly honorable his evident reluctance to detach himself from the discipline of his Church.

He has, it is true, no title to be regarded as a great thinker. His mind had not much originality or speculative power, and his leading tenets placed him completely out of harmony with the higher intellect of his time. Holding the doctrine of a particular Providence in such a sense as to believe that the physical phenomena of the universe were constantly changed for human convenience and at human prayers, he could have little sympathy with scientific thought. Assuming as axioms the inspiration of every word of the Bible and his own inspiration in interpreting it, throwing the whole weight of religious proof upon what he termed "a new class of senses opened in the soul to be the avenues of the invisible world, the evidence of things not seen, as the bodily senses are of visible things," he was simply indifferent to the gravest historical, critical, and ethical questions that were discussed about him, and difficulties that troubled some of the greatest thinkers were imperceptible for him. No class of opinions are less likely to commend themselves to a judicial and critical intellect than those which he embraced. His mind was incapable of continued doubt. His credulity and confidence on some subjects were unbounded, and his judgments of men were naturally strongly biassed by his theological views. Thus Hume appeared to him merely as "the most insolent despiser of truth and virtue that ever appeared in the world," and he regarded Beattie as incomparably superior both as a writer and a reasoner. Leibnitz he pronounced to be one of the poorest writers he had ever read. He could not pardon Reid

for having spoken respectfully of Rousseau, or Robertson for having referred without censure to Lord Kames, or Smollett and Guthrie for having treated witchcraft as a superstition. Still even the literary side of his character is by no means contemptible. He was an indefatigable and very skilful controversialist, a voluminous writer, and a still more voluminous editor. His writings, though they are certainly not distinguished either by originality of thought or by eloquence of expression, are always terse, well reasoned, full of matter and meaning. Unlike a large proportion of his followers, he had no contempt for human learning, and in spite of the incessant activity of his career he found time for much and various reading. He was accustomed to read history, poetry, and philosophy on horseback, and one of the charms of his journals is the large amount of shrewd literary criticism they contain.

His many-sided activity was displayed in the most various fields, and his keen eye was open to every form of abuse. At one time we find him lamenting the glaring inequalities of political representation; that Old Sarum without house or inhabitant should send two members to Parliament; that Looe, "a town nearly half as large as Islington," should send four members, while every county in North Wales sent only one. At another he dilated on the costly diffusiveness of English legal documents, or on the charlatanry and inconsistency of English medicine. He set up a dispensary, and, though not a qualified practitioner, he gratuitously administered medicine to the poor. He was a strong advocate of inoculation, which was then coming into use, and of the application of electricity to medicine, and he attempted, partly on sanitary and partly on economical grounds, to discourage the use of tea among the poor. He was among the first to reprobate the horrors of the slave trade, to call attention to the scandalous condition of the jails, to make collections for relieving the miserable destitution of the French prisoners of war. He supported with the whole weight of his influence the Sunday-school movement. He made praiseworthy efforts to put down among his followers that political corruption which was perhaps the most growing vice of English society. He also took an active, though a very unfortunate part in some of the political questions of the day. He wrote against the concession of relief to the Catholics; and during the American struggle he threw into a more popular form the chief arguments in Dr. Johnson's pamphlet against the Americans, and had probably a considerable influence in forming the public opinion hostile to all concession

# CHAPTER III

## PERSONAL GOVERNMENT OF GEORGE III

DURING the early years of his reign, George III demonstrated clearly the immense power which the crown could still wield in government by means of personal influence, bribery, appointments to government positions, and elevation to the peerage. He resented control by ministers depending for their authority upon the House of Commons, he narrowly watched the conduct of debates in the Parliament, and though compelled for a time to accept ministers whom he disliked, he steadily worked to increase his control in Commons by methods which May describes in an interesting fashion in the first volume of his *Constitutional History of England.*

### § 1. *The King's Friends and Royal Intervention in Parliamentary Affairs* [1]

The king's friends became more numerous and acted under better discipline. Some held offices in the government or household, yet looked for instructions, not to ministers, but to the king. Men enjoying obscure, but lucrative appointments, in the gift of the king himself and other members of the royal family, voted at the bidding of the court. But the greater number of the king's friends were independent members of Parliament, whom various motives had attracted to his cause. Many were influenced by high notions of prerogative, — by loyalty, by confidence in the judgment and honesty of their sovereign, and personal attachment to his Majesty, and many by hopes of favor and advancement. They formed a distinct party, and their coherence was secured by the same causes which generally contribute to the formation

[1] May, *Constitutional History of England*, Vol. I, pp. 35 ff. By permission of Longmans, Green, & Company, Publishers.





of party ties. But their principles and position were inconsistent with constitutional government. Their services to the king were no longer confined to counsel or political intrigue; but were organized so as to influence the deliberations of Parliament. And their organization for such a purpose marked a further advance in the unconstitutional policy of the court.

The king continued personally to direct the measures of his ministers, more particularly in the disputes with the American colonies, which, in his opinion, involved the rights and honor of his crown. He was resolutely opposed to the repeal of the Stamp Act, which ministers thought necessary for the conciliation of the colonies. He resisted this measure in council; but finding ministers resolved to carry it, he opposed them in Parliament by the authority of his name, and by his personal influence over a considerable body of Parliamentary adherents. The king affected, indeed, to support his ministers, and to decline the use of his name in opposing them. "Lord Harcourt suggested, at a distance, that his Majesty might make his sentiments known, which might prevent the repeal of the act, if his ministers should push that measure. The king seemed averse to that, said he would never influence people in their Parliamentary opinions, and that he had promised to support his ministers." But however the king may have affected to deprecate the use of his name, it was unquestionably used by his friends, and while he himself admitted the unconstitutional character of such a proceeding, it found a defender in Lord Mansfield. In discussing this matter with the king, his lordship argued "that, though it would be unconstitutional, to endeavor by his Majesty's name to carry questions in Parliament, yet where the lawful rights of the king and Parliament were to be asserted and maintained, he thought the making his Majesty's opinion in support of those rights to be known, was fit and becoming." In order to counteract this secret influence, Lord Rockingham obtained the king's written consent to the passing of the bill.

Ministers had to contend against another difficulty, which the tactics of the court had created. Not only were they opposed by independent members of the court party, but members holding office — upon whose support ministers were justified in relying — were encouraged to oppose them, and retained their offices while voting in the ranks of the opposition. The king, who had punished with so much severity any opposition to measures which he approved, now upheld and protected those placemen, who opposed the ministerial measures to which he himself objected. In vain

ministers remonstrated against their conduct, the king was ready with excuses and promises, but his chosen band were safe from the indignation of the government. Nor was their opposition confined to the repeal of the Stamp Act,—a subject on which they might have affected to entertain conscientious scruples; but it was vexatiously continued against the general measures of the administration. Well might Mr. Burke term this "an opposition of a new and singular character, — an opposition of placemen and pensioners." . . .

The king, meanwhile, had resolved to overthrow the Rockingham ministry, which was on every account distasteful to him. He disapproved their liberal policy; he was jealous of their powerful party, which he was bent on breaking up; and, above all, he resented their independence. He desired ministers to execute his will, and these men and their party were the obstacles to the cherished object of his ambition.

### § 2. *Chatham and Party Government*

At length, in July, 1766, they were ungraciously dismissed; and his Majesty now expected, from the hands of Mr. Pitt, an administration better suited to his own views and policy. Mr. Pitt's greatness had naturally pointed him out as the fittest man for such a task; and there were other circumstances which made him personally acceptable to the king. Haughty as was the demeanor of that distinguished man in the senate, and among his equals, his bearing in the royal presence was humble and obsequious. The truth of Mr. Burke's well-known sarcasm, that "the least peep into that closet intoxicates him, and will to the end of his life," was recognized by all his contemporaries. A statesman with at least the outward qualities of a courtier, was likely to give the king some repose, after his collisions with the last two ministries. He now undertook to form an administration, under the Duke of Grafton, with the office of privy seal, and a seat in the Upper House, as Earl of Chatham.

For another reason also, Lord Chatham was acceptable to the king. They agreed, though for different reasons, in the policy of breaking up party connections. This was now the settled object of the king, which he pursued with unceasing earnestness. In writing to Lord Chatham, July 29, 1766, he said, "I know the Earl of Chatham will zealously give his aid toward destroying all party distinctions, and restoring that subordination to government

which can alone preserve that inestimable blessing, liberty, from degenerating into licentiousness." Again, December 2, 1766, he wrote to the Earl of Chatham, "To rout out the present method of parties banding together can only be obtained by withstanding their unjust demands, as well as the engaging able men, be their private connections where they will." And again, on the 25th of June, 1767, "I am thoroughly resolved to encounter any difficulties rather than yield to faction."

By this policy the king hoped to further his cherished scheme of increasing his own personal influence. To overcome the Whig connection was to bring into office the friends of Lord Bute and the court party who were subservient to his views. Lord Chatham adopted the king's policy for a very different purpose. Though in outward observances a courtier, he was a constitutional statesman, opposed to government by prerogative and court influence. His career had been due to his own genius, independent of party, and superior to it; he had trusted to his eloquence, his statesmanship, and popularity. And now, by breaking up parties, he hoped to rule over them all. His project, however, completely failed. Having offended and exasperated the Whigs, he found himself at the head of an administration composed of the king's friends, who thwarted him, and of other discordant elements, over which he had no control.

He discovered, when it was too late, that the king had been more sagacious than himself, and that while his own power and connections had crumbled away, the court party had obtained a dangerous ascendency. Parties had been broken up, and prerogative triumphed. The leaders of parties had been reduced to insignificance, while the king directed public affairs according to his own will and upon principles dangerous to public liberty. According to Burke, when Lord Chatham "had accomplished his scheme of administration, he was no longer minister."

Meanwhile, other circumstances contributed to increase the influence of the king. Much of Lord Chatham's popularity had been sacrificed by the acceptance of a peerage, and his personal influence was diminished by his removal from the House of Commons, where he had been paramount. His holding so obscure a place as that of privy seal further detracted from his weight as a minister. His melancholy prostration soon afterward increased the feebleness and disunion of the administration. Though his was its leading mind, for months he was incapacitated from attending to any business. He even refused an interview to the Duke of

Grafton, the premier, and to General Conway, though commissioned by the king to confer with him. It is not surprising that the Duke of Grafton should complain of the languor under which "every branch of the administration labored from his absence." Yet the king, writing to Lord Chatham, January 23, 1768, to dissuade him from resigning the privy seal, said, "Though confined to your house, your name has been sufficient to enable my administration to proceed." At length, however, in October, 1768, completely broken down, he resigned his office, and withdrew from the administration.

### § 3. *The Accession of Lord North and Royal Intervention*

The absence of Lord Chatham, and the utter disorganization of the ministry, left the king free to exercise his own influence, and to direct the policy of the country without control. Had Lord Chatham been there, the ministry would have had a policy of its own; now it had none, and the Duke of Grafton and Lord North — partly from indolence and partly from facility — consented to follow the stronger will of their sovereign.

On his side, the king took advantage of the disruption of party ties, which he had taken pains to promote. In the absence of distinctive principles and party leaders, members of Parliament were exposed to the direct influence of the crown. According to Horace Walpole, "everybody ran to court, and voted for whatever the court desired." The main object of the king in breaking up parties had thus been secured.

On the resignation of the Duke of Grafton, the king's ascendency in the council of his ministers was further increased by the accession of Lord North to the chief direction of public affairs. That minister, by principle a Tory and favorable to prerogative — in character indolent and good-tempered, — and personally attached to the king — yielded up his own opinions and judgment, and for years consented to be the passive instrument of the royal will. The persecution of Wilkes, the straining of Parliamentary privilege, and the coercion of America, were the disastrous fruits of the court policy. Throughout this administration, the king staked his personal credit upon the success of his measures, and regarded opposition to his minister as an act of disloyalty, and their defeat as an affront to himself.

In 1770 Lord Chatham stated in Parliament, that since the king's accession there had been no original (*i.e.* independent) minister,

and examples abound of the king's personal participation in every political event of this period.

While the opposition were struggling to reverse the proceedings of the House of Commons against Wilkes, and Lord Chatham was about to move an address for dissolving Parliament, the king's resentment knew no bounds. In conversations with General Conway, at this time, he declared he would abdicate his crown rather than comply with this address. "Yes," said the king, laying his hand on his sword, "I will have recourse to this, sooner than yield to a dissolution of Parliament." And opinions have not been wanting that the king was actually prepared to resist what he deemed an invasion of his prerogative by military force.

On the 26th February, 1772, while the Royal Marriage Bill was pending in the House of Lords, the king thus wrote to Lord North: "I expect every nerve to be strained to carry the bill. It is not a question relating to administration, but personally to myself; therefore I have a right to expect a hearty support from every one in my service, and I shall remember defaulters." Again, on the 14th March, 1772, he wrote: "I wish a list could be prepared of those that went away, and of those that deserted to the minority (on division in the committee). That would be a rule for my conduct in the drawing-room to-morrow." Again, in another letter, he said: "I am greatly incensed at the presumption of Charles Fox, in forcing you to vote with him last night. . . . I hope you will let him know that you are not insensible of his conduct toward you." And the king's confidence in his own influence over the deliberations of Parliament appears from another letter, on the 26th June, 1774, where he said, "I hope the crown will always be able, in either house of Parliament, to throw out a bill, but I shall never consent to use any expression which tends to establish, that at no time the right of the crown to dissent is to be used."

The king watched not only how members spoke and voted, or whether they abstained from voting; but even if they were silent, when he had expected them to speak. No "whipper-in" from the Treasury could have been more keen or full of expedients in influencing the votes of members in critical divisions. He was ready, also, to take advantage of the absence of opponents. Hearing that Mr. Fox was going to Paris, he wrote to Lord North, on the 15th November, 1776, "Bring as much forward as you can before the recess, as real business is never so well considered as when the attention of the House is not taken up with noisy declamation." . . .

### § 4. *Failure of Personal Government*

Not without many affronts, and much unpopularity, the king and his minister long triumphed over all opposition in Parliament, but in 1778 the signal failure of their policy, the crisis in American affairs, and the impending war with France obliged them to enter into negotiations with Lord Chatham for the admission of that statesman and some of the leaders of the opposition into the ministry. The king needed their assistance, but was resolved not to adopt their policy. He would accept them as instruments of his own will but not as responsible ministers. If their counsels should prevail, he would himself be humiliated and disgraced.

In a letter to Lord North, on the 15th March, 1778, the king says, "Honestly, I would rather lose the crown I now wear than bear the ignominy of possessing it under their shackles." And, again, on the 17th March, he writes: "I am still ready to accept any part of them that will come to the assistance of my present efficient ministers; but, whilst any ten men in the kingdom will stand by me I will not give myself up to bondage. My dear Lord, I will rather risk my crown than do what I think personally disgraceful. It is impossible this nation should not stand by me. If they will not, they shall have another king, for I never will put my hand to what will make me miserable to the last hour of my life." Again, on the 18th, he writes, "Rather than be shackled by those desperate men (if the nation will not stand by me), I will rather see any form of government introduced into this island, and lose my crown, rather than wear it as a disgrace." The failure of these negotiations, followed by the death of Lord Chatham, left unchanged the unfortunate administration of Lord North.

Overtures, indeed, were made to the Whig leaders, to join a new ministry under Lord Weymouth, which were, perhaps unwisely, declined, and henceforth the king was resolved to admit none to his councils without exacting a pledge of compliance with his wishes. Thus, on the 4th February, 1779, writing to Lord North, he says, "You may now sound Lord Howe; but, before I name him to preside at the Admiralty Board, I must expect an explicit declaration that he will zealously concur in prosecuting the war in all the quarters of the globe." Again, on the 22nd June, 1779, he writes, "Before I will hear of any man's readiness to come into office, I will expect to see it signed under his own hand, that he

is resolved to keep the empire entire, and that no troops shall consequently be withdrawn from thence (*i.e.* America), nor independence ever allowed." It was not without reason that this deplorable contest was called the king's war.

At this time it was openly avowed in the House of Commons by Lord George Germaine, that the king was his own minister, and Mr. Fox lamented "that his Majesty was his own unadvised minister." Nor was it unnatural that the king should expect such submission from other statesmen, when his first minister was carrying out a policy of which he disapproved, but wanted resolution to resist, and when Parliament had hitherto supported his ill-omened measures. Lord North did not conceal his own views concerning the continuance of the American war. In announcing to the king the resignation of Lord Gower, who was of opinion that the contest "must end in ruin to his Majesty and the country," he said, "in the argument Lord North had certainly one disadvantage, which is that he held in his heart, and has held for three years past, the same opinion as Lord Gower." Yet the minister submitted to the stronger will of his royal master.

Again, however, the king was reduced to treat with the opposition; but was not less resolute in his determination that no change of ministers should affect the policy of his measures. On the 3rd December, 1779, he was prevailed upon to give Lord Thurlow authority to open a negotiation with the leaders of the opposition and expressed his willingness "to admit into his confidence and service any men of public spirit and talents who will join with part of the present ministry in forming one on a more enlarged scale, provided it be understood that every means are to be employed to keep the empire entire, to prosecute the present just and unprovoked war in all its branches, with the utmost vigor, and that his Majesty's past measures be treated with proper respect." Finding the compliance of independent statesmen less ready than he desired, he writes to Lord Thurlow, on the 18th December: "From the cold disdain with which I am treated, it is evident to me what treatment I am to expect from the opposition, if I was to call them into my service. To obtain their support, I must deliver up my person, my principles, and my dominions into their hands." In other words, the king dreaded the admission of any ministers to his councils who claimed an independent judgment upon the policy for which they would become responsible.

### § 5. *Protest against Royal Intervention*

In the meantime the increasing influence of the crown and the active personal exercise of its prerogatives were attracting the attention of the people and of Parliament. In the debate on the address at the opening of Parliament, on the 25th November, 1779, Mr. Fox said: "He saw very early indeed, in the present reign, the plan of government which had been laid down, and had since been invariably pursued in every department. It was not the mere rumor of the streets that the king was his own minister; the fatal truth was evident, and had made itself evident in every circumstance of the war carried on against America and the West Indies." This was denied by ministers; but evidence, not accessible to contemporaries, has since made his statement indisputable.

Early in the following year numerous public meetings were held, associations formed, and petitions presented in favor of economic reforms, and complaining of the undue influence of the crown, and of the patronage and corruption by which it was maintained. It was for the redress of these grievances that Mr. Burke offered his celebrated scheme of economical reform. He confessed that the main object of this scheme was "the reduction of that corrupt influence which is itself the perennial spring of all prodigality and of all disorder, which loads us more than millions of debt, which takes away vigor from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution."

On the 6th April Mr. Dunning moved resolutions, in a committee of the whole House, founded upon these petitions. The first, which is memorable in political history, affirmed "that the influence of the crown has increased, is increasing, and ought to be diminished." The Lord Advocate, Mr. Dundas, endeavored to diminish the force of this resolution by the prefatory words, "that it is necessary to declare"; but Mr. Fox, on behalf of the opposition, at once assented to this amendment, and the resolution was carried by a majority of eighteen. A second resolution was agreed to, without a division, affirming the right of the House to correct abuses in the civil list expenditure, and every other branch of the public revenue; and also a third, affirming "that it is the duty of this House to provide, as far as may be, an immediate and effectual redress of the abuses complained of in the petitions presented to this House." The opposition, finding themselves in a majority, pushed forward

their success. They would consent to no delay, and these resolutions were immediately reported and agreed to by the House. This debate was signalized by the opposition speech of Sir Fletcher Norton, the speaker, who bore his personal testimony to the increased and increasing influence of the crown. The king, writing to Lord North on the 11th April concerning these obnoxious resolutions, said, "I wish I did not feel at whom they were personally levelled."

The same matters were also debated, in this session, in the House of Lords. The debate on the Earl of Shelburne's motion, of the 8th February, for an inquiry into the public expenditure, brought out further testimonies to the influence of the crown. Of these the most remarkable was given by the Marquis of Rockingham, who asserted that since the accession of the king there had been "a fixed determination to govern this country under the forms of law, through the influence of the crown." Everything within and without, whether in cabinet, Parliament, or elsewhere, carried about it the most unequivocal marks of such a system; the whole economy of executive government, in all its branches, proclaimed it, whether professional, deliberative, or official. The supporters of it in books, pamphlets, and newspapers avowed it, and defended it without reserve. It was early in the present reign promulgated as a court axiom, "that the power and influence of the crown alone were sufficient to support any set of men his Majesty might think proper to call to his councils." The fact bore evidence of its truth; for through the influence of the crown, majorities had been procured to support any men or any measures, which an administration, thus constituted, thought proper to dictate.

This very motion provoked the exercise of prerogative, in an arbitrary and offensive form, in order to influence the votes of peers, and to intimidate opponents. The Marquis of Carmarthen and the Earl of Pembroke had resigned their offices in the household, in order to give an independent vote. Before the former had voted, he received notice that he was dismissed from the lord-lieutenancy of the East Riding of the county of York; and soon after the latter had recorded his vote, he was dismissed from the lord-lieutenancy of Wiltshire, an office which had been held by his family, at different times, for centuries. This flagrant exercise of prerogative could not escape the notice of Parliament, and on the 6th March Lord Shelburne moved an address praying the king to acquaint the House whether he had been advised, and by





whom, to dismiss these peers "from their employments, for their conduct in Parliament." The motion was negatived by a large majority; but the unconstitutional acts of the king were strongly condemned in debate, and again animadversions were made upon the influence of the crown, more especially in the administration of the army and militia.

On the meeting of Parliament, on the 27th November, 1781, amendments were moved in both houses, in answer to the king's speech, when strong opinions were expressed regarding the influence of the crown, and the irregular and irresponsible system under which the government of the country was conducted. The Duke of Richmond said "that the country was governed by clerks — each minister confining himself to his own office — and, consequently, instead of responsibility, union of opinion, and concerted measures nothing was displayed but dissension, weakness, and corruption." The "interior cabinet," he declared, had been the ruin of this country. The Marquis of Rockingham described the system of government pursued since the commencement of the reign as "a prospective system — a system of favoritism and secret influence." Mr. Fox imputed all the defeats and disasters of the American war to the influence of the crown.

### § 6. *Fall of Lord North*

The king was never diverted, by defeat and disaster, from his resolution to maintain the war with America, but the House of Commons was now determined upon peace, and a struggle ensued which was to decide the fate of the minister, and to overcome, by the power of Parliament, the stubborn will of the king. On the 22nd February, 1782, General Conway moved an address deprecating the continuance of the war, but was defeated by a majority of one. On the 27th he proposed another address with the same object. Lord North begged for a short respite; but an adjournment being refused by a majority of nineteen, the motion was agreed to without a division.

On the receipt of the king's answer, General Conway moved a resolution that "the House will consider as enemies to the king and country all who shall advise, or by any means attempt, the further prosecution of offensive war, for the purpose of reducing the revolted colonies to obedience by force." In reply to this proposal, Lord North astonished the House by announcing, not that he proposed to resign on the reversal of the policy, to which he was

pledged, but that he was prepared to give effect to the instructions of the House. Mr. Fox repudiated the principle of a minister remaining in office, to carry out the policy of his opponents, against his own judgment, and General Conway's resolution was agreed to. Lord North, however, persevered with his propositions for peace, and declared his determination to retain office until the king should command him to resign, or the House should point out to him in the clearest manner the propriety of withdrawing. No time was lost in pressing him with the latter alternative. On the 8th March a motion of Lord John Cavendish, charging all the misfortunes of the war upon the incompetency of the ministers, was lost by a majority of ten. On the 15th Sir J. Rous moved that "the House could no longer repose confidence in the present ministers," and his motion was negatived by a majority of nine. On the 20th the assault was about to be repeated, when Lord North announced his resignation.

The king had watched this struggle with great anxiety, as one personal to himself. Writing to Lord North on the 17th March, after the motion of Sir J. Rous, he said, "I am resolved not to throw myself into the hands of the opposition at all events, and shall certainly, if things go as they seem to tend, know what my conscience as well as honor dictates, as the only way left for me." He even desired the royal yacht to be prepared, and talked as if nothing were now left for him but to retire to Hanover. But it had become impossible to retain any longer in his service that "confidential minister," whom he had "always treated more as his friend than minister." By the earnest solicitations of the king, Lord North had been induced to retain office against his own wishes; he had persisted in a policy of which he disapproved, and when forced to abandon it, he still held his ground, in order to protect the king from the intrusion of those whom his Majesty regarded as his personal enemies. He was now fairly driven from his post, and the king, appreciating the personal devotion of his minister, rewarded his zeal and fidelity with a munificent present from the privy purse.

The king's correspondence with Lord North gives us a remarkable insight into the relations of his Majesty with that minister, and with the government of the country. Not only did he direct the minister in all important matters of foreign and domestic policy, but he instructed him as to the management of debates in Parliament, suggested what motions should be made or opposed, and how measures should be carried. He reserved to himself

all the patronage; he arranged the entire cast of the administration; settled the relative places and pretensions of ministers of state, of law officers, and members of his household; nominated and promoted the English and Scotch judges, appointed and translated bishops, nominated deans, and dispensed other preferments in the Church. He disposed of military governments, regiments, and commissions, and himself ordered the marching of troops. He gave or refused titles, honors, and pensions. All his directions were peremptory: Louis the Great himself could not have been more royal; he enjoyed the consciousness of power, and felt himself "every inch a king."

### Bibliographical Note

Lecky, *History of England in the Eighteenth Century*, Vols. III and IV, consult table of contents on above topics. Stanhope (Lord Mahon), *History of England from 1713 to 1783*, consult table of contents.



## CHAPTER IV

### THE INDUSTRIAL REVOLUTION

THE great religious and political revolutions which England had undergone since the Middle Ages had left the country still mediæval in its main features. The English people continued to live, work, and travel in very much the same way as they had in the day of King John. If a larger portion of the people lived in towns than in that day, still they were not the factory towns which one sees now, but rather overgrown country villages. Over a vast portion of the country one could see traces of mediæval economy in the primitive common field system of agriculture. Even those who were not engaged in tilling the soil were often not entirely divorced from it, but spent a portion of their time away from their industries working in the fields. The majority of the people were as ignorant as they had been centuries before, and as excluded from the political life of the nation as the peasant in the day when Magna Carta was signed. Suddenly there was introduced a series of inventions which completely altered the old ways of living and working. The cottage workshops gave place to great factories in which were collected the thousands of workmen whose hand-instruments of production were rendered obsolete by the steam engine. Production which had hitherto been carried on for use or exchange in a restricted market gave place to production in which profit was the driving motive. The intellectual and economic rigidity of the Middle Ages was broken by steadily intensifying competition, shifting of population, and constant changes in technical processes. Two new classes sprang rapidly into existence, the owners of the new factories and the workers in them. This far-reaching revolution, whose undreamt-of possibilities are not yet realized, lies

at the bottom of the great political, reform, imperial, and literary movements of the nineteenth century. To study these without their economic foundations is to miss the underlying forces of modern history.

### § 1. *The Opening of a New Era*[1]

The period, which opened with Arkwright's mechanical inventions, has been the commencement of a new era in the economic history, not only of England, but of the whole world. It marked one of the great stages in the growth of human power to master nature. The discovery of the New World, and of the sea route to India, had been events which gradually altered the whole method and scale on which European commerce was carried on. The application of water-power and of steam, to do the work which had been previously accomplished by human drudgery, is comparable with the commercial revolution of the sixteenth century, as a new departure of which we do not even yet see the full significance. Physical forces have been utilized so as to aid man in his work; and the introduction of machinery continues slowly, but surely, to revolutionize the habits and organizations of industrial life in all parts of the globe. Half-civilized and barbarous peoples are compelled to have recourse, as far as may be, to modern weapons and modern means of communication; they cannot hold aloof, or deny themselves the use of such appliances. But the adoption of modern methods of production and traffic is hardly consistent with the maintenance of the old social order, in any country on this earth.

England was the pioneer of the application of mechanism to industry, and thus became the workshop of the world, so that other countries have been inspired by her example. The policy of endeavoring to retain the advantages of machinery for England alone was mooted, but never very seriously pursued, and it was definitely abandoned in 1825. The changes which have taken place in England, during the last hundred and thirty years, at least suggest the direction of the movements which may be expected in other lands, as they are drawn more and more to adapt themselves to modern conditions. The time has not yet come to write the history of the industrial revolution in its broader aspects,

[1] Cunningham, *Growth of English Industry and Commerce* (1903), Vol. II, Part 2, pp. 609 ff. By permission of Dr. Cunningham and the Cambridge University Press.

for we only know the beginning of the story; we can trace the origin and immediate results in England, but we cannot yet gauge its importance for the world as a whole.

### § 2. *Reasons for English Leadership*

It was not an accident that England took the lead in this matter; the circumstances of the day afforded most favorable conditions for the successful introduction of new appliances. Inventions and discoveries often seem to be merely fortuitous; men are apt to regard the new machinery as the outcome of a special and uncontrollable burst of inventive genius in the eighteenth century. But we are not forced to be content with such a meagre explanation. To point out that Arkwright and Watt were fortunate in the fact that the times were ripe for them, is not to detract from their merits. There had been many ingenious men from the time of William Lee and Dodo Dudley, but the conditions of their day were unfavorable to their success. The introduction of expensive implements, or processes, involves a large outlay; it is not worth while for any man, however energetic, to make the attempt, unless he has a considerable command of capital, and has access to large markets. In the eighteenth century these conditions were being more and more realized. The institution of the Bank of England, and of other banks, had given a great impulse to the formation of capital; and it was much more possible than it had ever been before for a capable man to obtain the means of introducing costly improvements in the management of his business. It had become apparent, too, that the long-continued efforts to build up the maritime power of England had been crowned with success; she had established commercial connections with all parts of the globe, and had access to markets that were practically unlimited. Under these circumstances, enterprising men were willing to run the risk of introducing expensive novelties, and inventors could reasonably hope to reap advantage themselves from the improvements they suggested.

In the seventeenth century such an expansion had hardly been possible at all; the dominant principles were still in favor of a well-ordered trade, to be maintained by securing special concessions; the interlopers, who were prepared to contest such privileges and to force their business on any terms they could, were still regarded as injurious to the sound and healthy development of commerce. But after the revolution, England entered on a new

phase of mercantile life; and the keen competition which had been allowed free play temporarily during the Interregnum, with disastrous results, came to be accepted as the ordinary atmosphere of trade. The principles, which the interlopers had practised, were being more generally adopted, and all merchants became agreed that it was by pushing their wares, and selling goods that were better and cheaper than those of other countries, that new markets could be opened up and old ones retained. The "well-ordered trade" of the merchant companies would hardly have afforded sufficient scope for the introduction of mechanical improvements in manufacturing. In the civic commerce of the Middle Ages, and during the seventeenth century, merchants had looked to well-defined and restricted markets in which they held exclusive rights. So long as this was the case, attempts were made to carry on industrial production so as just to meet these limited requirements, and to secure conditions for the artisan, by guarding him from competition and authoritatively assessing his wages. As merchants and manufacturers realized that they could best gain and keep foreign markets, not by special privileges, but by supplying the required goods at low rates, they aimed at introducing the conditions of manufacture under which industrial expansion is possible. This opinion commended itself more and more to men of business and legislators, but it penetrated slowly among the artisans, who preferred the stability of the life they enjoyed under a system of regulation and restriction. Workmen were inclined to oppose the introduction of machinery in so far as it tended to upset the old-established order of the realm, while others seem to have hoped that machinery would confer on England a monopoly of industrial power so that she would be able to dictate her own terms to foreign purchasers, and to rear up a new exclusive system.

### § 3. *Decline of the Regulative Policy*

The old ideas, which had given rise to the trade institutions of the Middle Ages, and which had continued to be dominant in the seventeenth century, were not dead at the opening of the nineteenth century, but they no longer appealed either to the capitalist classes or to the intelligence of Parliament. No authoritative attempt was made to recast the existing regulations so as to suit the changing conditions. To do so was not really practicable; only two courses lay open to the legislators. They could either forbid the introduction of machinery, as Charles I had done, for

fear that people would be thrown out of work, or they could smooth the way for the introduction of the new methods by removing the existing barriers. The House of Commons chose the latter alternative, since the members had come to regard all efforts to prevent the use of mechanical appliances as alike futile and inexpedient.

In the absence of any enforcement of the old restrictions, in regard to the hours and terms of employment, the difficulties of the transition were intensified; and the laborers, who had never been subjected to such misery under the old régime, agitated for the thorough enforcement of the Elizabethan laws. The working classes, for the most part, took their stand on the opinions as to industrial policy which had been traditional in this country, and were embodied in existing legislation. To the demand of the capitalist for perfect freedom for industrial progress, the laborers were inclined to reply by taking an attitude of impracticable conservatism; it was not till many years had elapsed, and freedom for economic enterprise had been secured, that serious attempts were made, from an entirely different point of view, to control the new industrial system so that its proved evils should be reduced to a minimum. The artisans were so much attached to the traditional methods of securing the well-being of the laborer that they hung aloof for a time from the humanitarian effort to remedy particular abuses by new legislation.

### § 4. *Extent and Character of the Industrial Changes*

We have no adequate means of gauging the rapidity and violence of the industrial revolution which occurred in England during the seventy years from 1770 to 1840; it commenced with the changes in the hardware trades, which have been already described, but the crisis occurred when inventive progress extended to the textile trades. Despite the gradual development, it seems likely enough that, while centuries passed, there was little alteration in the general aspect of England; but the whole face of the country was changed by the industrial revolution. In 1770 there was no Black Country, blighted by the conjunction of coal and iron trades; there were no canals, or railways, and no factory towns with their masses of population. The differentiation of town and country had not been carried nearly so far as it is to-day. All the familiar features of our modern life, and all its most pressing problems, have come to the front within the last century and a quarter.

The changes included in the term *industrial revolution* are so complicated and so various that it is not easy to state, far less to solve, the questions which they raise. There have been many different forms of industrial invention. Sometimes there has been the introduction of new processes, as in the important series of experiments by which the problem of smelting and working iron, with fuel obtained from coal, was finally solved; and this, as we have seen, was of extraordinary importance. Other improvements have consisted in the employment of new implements, by which the skilled laborer is assisted to do his work more quickly or better; one example has been noticed in the flying shuttle, and the substitution of the spinning-wheel for the whorl and spindle was another. But such a change is hardly to be described as the introduction of machinery. A machine, as commonly understood, does not assist a man to do his work; it does the work itself, under human guidance; its characteristic feature is that it is an application of power, and not of human exertion. Hence the introduction of machinery always has a very direct bearing on the position of the laborer. From one point of view we may say that it saves him from drudgery; from another, that it forces upon him the strain of a competition in which he is overmatched, and thus gradually deprives him of employment. The invention of new processes and new implements has not such a necessary and direct result on the employment and remuneration of labor as occurs with the introduction of machines. So far as the wealth of the realm was concerned, the development of the coal and iron trades was of extraordinary importance, but the substitution of mechanical inventions for hand labor in the textile trades brought about a revolution in social life throughout the country.

Though the changes effected by the industrial revolution have been so startling, it may be yet said, when we view them from an economic standpoint, that they were of unexampled violence rather than wholly new. After all, the age of mechanical invention was only one phase of a larger movement. We have traced the gradual intervention of capital in industry and agriculture, especially during the eighteenth century; we shall now have to note the operation of the same force, but at a greatly accelerated pace. Capital obtained a footing and held its ground in the cloth trade, because of the facilities which the wealthy man enjoyed for purchasing materials, or for meeting the markets. Other trades, such as coal mining or iron manufacture, had been necessarily capitalistic in type from the earliest days, because none but wealthy men were

able to purchase an expensive plant, and to run risks of setting it up. The invention of mechanical appliances for the textile trades gave a still greater advantage to the rich employer, as compared with the domestic weaver, since only substantial men could afford to employ machines. It was a further sign of the triumph of the modern system of business management.

### § 5. *Effect of Machinery on Labor*

It is worth while to distinguish some of the principal changes in connection with labor which resulted from the increase of capitalist organization and especially from machine production. The opening chapter of the *Wealth of Nations* calls attention to the important improvement which is known as the division of processes. Adam Smith there points out that an employer can organize production, and assign each man his own particular task in such a way, that there shall be a saving of time and of skill. There will also be other advantages, such as increase of deftness, from the acquired facility in doing some one operation rapidly and well. The division of processes is sure to arise under any capitalist system of control; in some districts of the cloth trade, it had been carried out to a very considerable extent for centuries, and it is true to say that increased subdivision has facilitated the invention of machinery. None the less is it also true that the adoption of mechanical appliances has led to the development of new forms of specialized labor, and has tended to confine men more exclusively to particular departments of work.

The invention of machinery, as well as the introduction of new processes, brought about a considerable shifting of labor. The employment of coal for smelting iron tended to the disuse of charcoal burning, and caused an increased demand for hewers in coal mines; whether there was less employment or more, in connection with the production of a ton of suitable fuel, it was employment of a different kind. The adoption of machinery in the textile trades also caused an extraordinary shifting of labor, for children were quite competent to tend machines which carried on work that had hitherto occupied adults. On the whole, machinery rendered it possible in many departments of industry to substitute unskilled for skilled labor.

The tendency, which had been observable during the early part of the century, for manufacturers to migrate to particular districts, was enormously accelerated by the introduction of machinery. So

far as the cloth trade was concerned, the trend appears to have been due to the facilities which water-power afforded for fulling-mills; and as one invention after another was introduced, it became not merely advantageous, but necessary for the manufacturer to establish his business at some place where power was available. We have in consequence the rapid concentration of industries in the West Riding and other areas where water-power could be had, and the comparative desertion of low-lying and level districts. The application of steam-power caused a further readjustment in favor of the coal-producing areas; but this new development did not resuscitate the decaying industries of the eastern counties, since they were as badly off for coal as they were for water-power.

The introduction of machinery rendered it necessary to concentrate the laborers in factories where the machines were in operation; the new methods of work were incompatible with the continued existence of cottage industry. The man who worked in his own house, whether as a wage-earner under the capitalist system or as an independent tradesman under the domestic system, was no longer required, so soon as it was proved that machine production was economically better. In the same way, the concentration of spinning in factories deprived the women of a by-employment in their cottage. During the greater part of the eighteenth century industrial occupations were very widely diffused, and the interconnection between the artisan population and rural occupation was close. The severance had already begun; but under the influence of the introduction of machinery it went on with greater rapidity, till the differentiation of town from country employment was practically complete.

The divorce of the industrial population from the soil tended on the one hand to the impoverishment of the rural districts, from which manufactures were withdrawn, and on the other to a notable change in the position of the workman; he came to be wholly dependent on his earnings, and to have no other source to which he could look for support. The cottage weavers, whether wage-earners or independent men, had had the opportunity of work in the fields in harvest and of supplementing their income from their gardens or through their privileges on the common wastes. When the industrial population were massed in factory towns they were necessarily deprived of these subsidiary sources of income, and their terms of employment were affected by the state of trade. So long as cottage industry lasted, the workmen had something to

fall back upon when times were bad; but under the new conditions the fluctuations were much more violent than they had ever been before, and the workman had no means of improving his position. The prosperity of the mass of the population no longer rested on the solid basis of land, but upon the fluctuating basis of trade.

The age of invention then was not merely concerned, as might at first sight appear, with the improvement of particular arts; it effected an entire revolution in the economic life of the country; for this reason it is not quite easy to weigh against one another the loss and gain involved in such a fundamental change. We see on the one hand the signs of marvellous economic progress, an immensely increased command over material resources of all sorts and an extraordinary development of trade and wealth, with the consequent ability to cope with the schemes by which Napoleon endeavored to compass our ruin. On the other hand we see a loss of stability of every kind; England as a nation forfeited her self-sufficing character and became dependent on an imported food supply; and a large proportion of the population, who had been fairly secure in the prospect of shelter and employment and subsistence for their lives, were reduced to a condition of the greatest uncertainty as to their lot from year to year or from week to week. Over against the rapid advance of material prosperity must be set the terrible suffering which was endured, especially in the period of transition; and while we congratulate ourselves on the progress that has taken place, we should not forget the cost at which it has been obtained, or the elements of well-being that have been sacrificed.

### § 6. *Rise of the Capitalist Class*

There were, however, certain sections of the community which were able to take advantage of the period of change, and to adapt themselves rapidly to the new conditions; a class of capitalist manufacturers came into great prominence, and they were soon able to exercise considerable influence in Parliament. There had, of course, been wealthy employers in certain districts, especially in the iron trade, and in the cloth trade of the west of England; but the moneyed men of the seventeenth and eighteenth centuries had been merchants rather than manufacturers of textile goods. It was only with the progress of the industrial revolution that the wealthy employer of labor attained to anything like the social status which had been accorded to successful merchants from time

immemorial. But the triumph of capital in industry involved the rise and prosperity of a large number of captains of industry.

It seems probable that there was comparatively little room for the intrusion of new men in the old centres of the trades. There were large and well-established houses engaged in this manufacture in the west of England, and they had an honorable ambition to maintain the traditions of their trades. In Yorkshire, too, there was a class of capitalist merchants who were ready to deflect their energies into manufacturing as occasion arose. The wealthy employers of the West Riding seem to have been chiefly drawn from this class, though they were doubtless reënforced to some extent by individuals who had risen from the ranks. There is reason to believe, however, that in Lancashire, and the other areas where the cotton trade was carried on, the course of affairs was somewhat different. This industry was characterized by an extraordinary expansion, and it offered abundant opportunities for new men of energy and perseverance to force their way to the front. "Few of the men who entered the trade rich were successful. They trusted too much to others — too little to themselves; whilst on the contrary the men who prospered were raised by their own efforts commencing in a humble way, generally from exercising some handicraft, as clockmaking, hatting, etc., and pushing their advance by a series of unceasing exertions, having a very limited capital to begin with, or even none at all, saving their own labor." The yeomen farmers as a class failed to seize the opportunities open to them; but a "few of these men, shaking off their slothful habits, both of body and mind, devoted themselves to remedying other conditions with a perseverance certain to be successful. Joining to this determination a practical acquaintance with the details of manufactures, personal superintendence and industry, several of the most eminently successful steam-manufacturers have sprung from this class of people, and have long since become the most opulent of a wealthy community." The Peels and the Strutts were examples of families which emerged from the ranks of the yeomen and acquired great wealth in the cotton trade. Many of the rich manufacturers in such towns as Stockport, Hyde, Duckenfield, and Staleybridge had in early life worked as "hatters, shoemakers, carters, weavers, or some other trade." Some of these self-made men were not disinclined to be proud of their own success, and to be at once hard and contemptuous toward the man who had shown so little energy as to remain in the laboring class, as if it was less his fortune than his fault.

### § 7. *The Manchester School*

It was not unnatural that, as the cotton manufacture continued to increase, Manchester should become the centre of a school of men who were deeply imbued with the belief that in industrial affairs the battle was to the strong and the race to the swift. The system, which the mercantilists had built up with the view of stimulating industry, seemed to this new race only to stifle and hamper it. Under somewhat different circumstances the capitalist employers might have been eager to secure protection. The *nouveaux riches* of the fourteenth century were eager to protect English municipalities against the intrusion of aliens; the merchant princes of the seventeenth century organized a restrictive system by means of which they hoped to foster the English industry at the expense of the French and the Dutch. American millionnaires have found their protective tariff an assistance in building up gigantic trusts. It is at least conceivable that the cotton manufacturers of the early part of the nineteenth century should have endeavored to retain for a time a monopoly of industrial power, and have forced other peoples to pay such prices as would have enabled them to remodel the conditions of production in a satisfactory fashion. This policy would have commended itself to the minds of the artisans; had it been adopted, the cleavage between capital and labor would hardly have been so marked. But the spirit of keen competition had caught hold of the employing class; they were of opinion, and in all probability their judgment on this point was perfectly sound, that it was only by a continued exercise of the activity by which they had found their way into foreign markets that they could hope to retain them.

The Manchester School were aiming at the same object as the mercantilists had pursued during the period of Whig ascendency: they desired to promote the industrial activity of the country; but the means they recommended were the very opposite of those which had been adopted in earlier days. They felt that they could dispense with fostering care and exclusive privileges; this was in itself a tribute to the success of the policy which had been so steadily pursued for generations. The maritime power of England had been built up, the industry had been developed, the agriculture had been stimulated, and the economic life had become so vigorous that it appeared to have outgrown the need of extraneous help. There seemed to be a danger that the very measures which had

been intended to support it should prove to be fetters that hampered its growth.

### § 8. *The Introduction of Machinery in the Textile Trades*

The cotton manufacture was the first of the textile trades to be revolutionized by the introduction of new machinery. Appliances worked by power had been in operation from time immemorial in the subsidiary operations of the woollen trade, such as the fulling-mills, and silk-mills had been erected on the model of those in Piedmont; but the series of inventions for carding and spinning cotton, which is associated with the name of Richard Arkwright, marks the beginning of a fresh era. He had been brought up as a barber, and does not appear to have had either the technical acquaintance with the cotton trade or the mechanical skill which might be expected in a great inventor. Still he possessed such business ability as to inspire the confidence of wealthy patrons, who supplied him with the necessary funds. "By adopting various inventors' ideas he completed a series of machines for carding and roving. He was enabled to do this the more easily by having the command of a large capital. The inventors of the improvements had not the means of carrying them into effect on an extensive scale; they found the game, but from want of capital were unable to secure it, whilst Mr. Arkwright by availing himself of their inventions and by inducing 'men of property to engage with him to a large amount' reaped all the advantages and obtained all the rewards;" and he succeeded in rendering the ideas of other men a practical success. Roller-spinning had been patented by Lewis Paul in 1738, but his rights had expired. The same principle was applied by Thomas Highs in the water frame, which was the basis on which Arkwright worked. He set up a spinning-mill with horse-power at Nottingham in 1771, and afterwards made use of water-power in his mill at Cromford, in Derbyshire. In 1775 he obtained a patent, which embraced the inventions of Lewis Paul and others. Arkwright's exclusive claims were ignored by other manufacturers, and he had recourse to the courts to enforce them; but finally, in the action which he brought against Colonel Mordaunt, Arkwright failed to maintain his alleged rights; and his appeal to the public, entitled *The Case of Mr. Richard Arkwright*, did not create the favorable impression he had expected. There was henceforth no hindrance to the general use of power-spinning. The hand-jenny, which was improved from Highs' invention by

Hargreave of Blackburn about 1767, had met with serious opposition, and it had hardly been introduced in the cotton districts before it was superseded, and the work transferred to mills where water-power was available. A further invention in 1775 by Crompton, of the water mule which combined the principles of the jenny and the water frame, rendered it possible to obtain a much finer thread than had previously been produced by machinery, so that it became possible to develop the muslin manufacture. Through these changes the carding, roving, and spinning of cotton were no longer continued as cottage employments, and weaving was the only part of the manufacture which was not concentrated in factories.

The cotton trade had a peculiar position among English manufactures; it was not an industry for which the country was naturally adapted, for the materials were imported, and it had never enjoyed the protection bestowed on some other exotic trades, for there was no serious French competition. The early history of the trade is very obscure; and it is rendered particularly confusing by the ambiguous use of the term *cottons*, which was applied in the sixteenth century to some kinds of cloth manufactured from wool. There can be little doubt, however, that the trade in Manchester goods, in which Humphrey Chetham made his fortune, included cottons and fustians made from the vegetable material. In 1641 we have an undoubted mention of the weaving of cotton in its modern sense; Lewis Roberts speaks with admiration of the enterprise of the Manchester men who bought the cotton wool of Cyprus and Smyrna in London and sold quantities of fustians, vermilions, and dimities. A few years earlier, in 1626, we have an isolated proposal to employ the poor in the spinning and weaving of cotton wool; it seems likely enough that the industry was planted in Lancashire about 1685 by immigrants from Antwerp, a city where the fustian manufacture had been prosecuted with success. But however it was planted, it took root in Lancashire and developed steadily till about 1740, when an era of more rapid progress began. The competition of the East India Company was that which the manufacturers had most reason to fear, and though the cloth they wove of cotton on a linen warp had a practical monopoly in the home market, they were liable to be undersold by the company in foreign markets. Arkwright's inventions, by spinning a firmer cotton thread than had hitherto been procurable and one which was suitable for the warp, made it possible to manufacture a cloth on terms which rendered it acceptable in markets in all parts of the world.

The effect of Arkwright's success was to open up to a trade that had hitherto been conducted on a small scale the possibility of enormous and indefinite expansion. Materials could be obtained in considerable quantities from the East and the Bahamas; and in the last decades of the eighteenth century increasing supplies were procured from the Southern States. Since plenty of raw material was available, the manufacture advanced rapidly to meet the enlarging demand for cheap cotton cloth. It is to be noticed, however, that the trade was liable to serious interruptions; both for the materials used, and for access to the markets in which the cloth was sold, the Lancashire manufacturers were dependent on foreign commerce; and a breach of mercantile intercourse might disorganize the whole of the industry. This occurred to some extent from the decline of the American demand for Manchester goods during the War of Independence; as a result there was considerable distress among the hands employed. They were inclined to attribute it to the introduction of machinery and there was a good deal of rioting and destruction of spinning-jennies in parts of Lancashire. Apart from these periods of distress, however, the trade increased by leaps and bounds, and it was alleged in 1806 that a third part in value of all our exports was sent abroad in the form of cotton goods.

This unexampled expansion of the industry opened up a very much larger field for employment than had been available before the era of these inventions. The abundance of yarn, especially after 1788, when mule yarns became available, was such that the services of weavers were in great demand, and considerable quantities of yarn were sent abroad for use on foreign looms. The kinds of labor needed were not very different from those required in the old days of hand spinning and carding; but girls and women were concentrated in factories to tend the machines, instead of spinning with their wheels in cottages. This case affords an excellent illustration of an important principle in regard to labor-saving machinery; when the improvement renders the article cheaper and thereby stimulates the demand, it is quite likely that there will be an increased call for labor, because the machine has come into use. The artisans, who thought that such inventions must necessarily deprive them of their occupation, were mistaken; the number of hands engaged in the cotton trade to-day is undoubtedly much larger than it was in the time of Arkwright. Much remains to be said about the conditions and terms of employment; but there can be no doubt whatever that the introduction of

machinery did not diminish the numbers occupied in the cotton trade.

The only check to the indefinite expansion of the trade lay in the limited supply of water-power available; that cause for apprehension was removed, however, by the invention of Boulton and Watt, and the application of steam as the motive power in cotton-mills. Though steam engines had long been in use for pumping water from mines, the improvements, which reduced the cost of working and rendered it possible to apply steam power to industry, were an immense advance.

At Papplewick, in Nottinghamshire, a steam cotton-mill was erected in 1785; and the new power was utilized for spinning at Manchester in 1789, and at Glasgow in 1792. Its full effect was only gradually felt, and water continued to be economically the better agent during the first quarter of the nineteenth century; but eventually as a consequence of Watt's invention, water-falls became of less value. Instead of carrying the people to the power, employers found it preferable to place the power among the people at the most convenient trading centres. The factory system is older than the application of steam to the textile trades; but the introduction of the new mechanical power tended to destroy the advantage of factory villages on streams, and rendered possible the gradual concentration of the population in factory towns.

The cotton trade, as depending on imported materials and supplying foreign markets, was probably a capitalistic trade from the very first; the suggestion that it was planted by immigration from abroad harmonizes with this view, and though the weavers were cottagers, it is likely that they were wage-earners and not men who worked on the domestic system. However this may be, the manufacture was organized on capitalistic lines from the time of the introduction of machinery, and the cotton factories which rose in the neighborhood of Manchester and other large towns soon began to attract public attention.[1]

[1] For full bibliography, consult Cunningham, *op. cit.*, pp. 943 ff.



# CHAPTER V

## THE CONTINENTAL SYSTEM

PATRIOTISM, political partisanship, and religious opinions have greatly obscured the real issues at stake in the long wars which England waged with France from 1793 to 1815. To get at the forces which brought on and continued this contest, it is not enough to study the diplomatic negotiations immediately preceding the outbreak of the war; one must turn to the history of the two centuries of conflict, armed and peaceful, prior to the Revolution; one must examine the distribution of colonial and commercial interests in the various parts of the world; and finally, one must study the internal economic conditions of France and England. Unfortunately we have in English no book on these particular aspects, but Professor Sloane in the following article has given a balanced though short account of the main forces at work.

### § 1. *Commercial Position of England at the Outbreak of the French War* [1]

The phrase "a nation of shopkeepers" was used to stigmatize the English by Samuel Adams in the *Independent Advertiser* as early as 1748. It expressed the feelings of the English in America toward the English in England with perfect accuracy, and was destined to become a winged word throughout Europe. The Seven Years' War was a struggle for commercial supremacy which made England in a new sense the arbiter of the world's commerce. The American Revolution began ostensibly, at least, in certain questions of trade, taxation, and representation, and the fundamental question of racial and institutional development, which bore much the same relation to the struggle as that of

[1] Reprinted from the *Political Science Quarterly*, Vol. XIII, pp. 213 ff. By permission of Professor Sloane and Ginn & Company, Publishers.

slavery bore to our Civil War, did not appear until at its close. Again, the French Revolution was apparently concerned at first with matters of internal finance and taxation; but before the close it was plain to every observer that the relation of the new republic to the balance of political and economic power throughout Europe was the question on which hung its stability.

Politically, England had suffered a reverse in our Revolution, but she had managed to retain her control of American commerce. In the year 1783 she was distinctly stronger than any other land, not even excepting France. On the outbreak of the Continental Revolution she had everything to win or lose in the decision as to what influence should preponderate on the globe at the close of the epoch which she had inaugurated in her own Revolution of 1688. The armed peace which lasted until 1793 was therefore a pregnant time in the field of political and economic speculation — a period in which the wealth of England was the cynosure of all eyes and the universal topic of discussion. Yet the conclusion reached in France was that expressed by Kersaint in his speech before the Convention on January 13, 1793, "The credit of England rests on a fictitious wealth."

This and a similar statement by Brissot represented the view of the extreme Radical party. At the beginning of the discussion there had been many opinions. Pitt's commercial treaty with France of 1786 was highly favorable to the wine growers of the south and to such manufacturers of the west and centre as did not directly compete with those of England ; accordingly it was popular in those regions. But in the north, where the industrial and commercial interests were in direct competition with those of Great Britain, the treaty was regarded with detestation, as preliminary to the further development of a deep-laid plot to annihilate French trade. With the march of political events this feeling spread, and France, from being a land guided by free-traders, went to the opposite extreme and became strongly protectionist. Reviving the commercial policy of the old régime, the republic outran the zeal of the monarchy. Such, according to our best authority, Mollien, was the condition of public opinion when Bonaparte took charge in 1800.

### § 2. *French Protective Policy and Bonaparte*

It is needless to say that a man like the First Consul, who was a suitor for public favor, made the universal jealousy of England's

commercial supremacy in a special and peculiar sense his foremost care. But that Bonaparte did not originate the high protection policy of France is proved by the remarkable enactment known as the *Loi de 10 Brumaire, An V* (October 31, 1796). This drastic measure forbade the importation of all manufactured articles, either made in England or passing through the channels of English trade by land or sea, except under certain stringent and exceptional regulations as to trans-shipment, and ordered the confiscation of such articles if found in a French port on any vessel whatsoever. The carefully prepared list of the articles of English manufacture thus to be shut out included everything in the production of which the expansion of English manufactures at the close of the last century made Great Britain super-eminent, — products of the loom, the forge, the tannery, the glass house, the sugar refinery, and the potter's kiln. Fourteen concluding articles of the law enacted a system of trade control whereby, to all appearance, the evasion of either the letter or spirit of the law was made impossible.

Yet for a time the disintegration of the public powers under the Directory was such that in spite of "the exasperation of the national hatred against the English government," the law was simply ignored. On December 4, 1798, however, there was a sudden change; without warning, strong military detachments were placed at the gates of Paris and every vehicle was searched carefully, domiciliary visits were commenced by the customs authorities and were continued until all English wares were removed from commerce, and French public opinion supported these proceedings, which the English stigmatized as "legal robbery." The fact was that Napoleon Bonaparte had temporarily taken up the task of administration, and, having correctly read the public temper, was beginning the policy of "thorough." The treaty of Campio Formio had been concluded; and though he was only commander-in-chief of the French army — and that by construction rather than in form — he was really the arbiter of the government. Whatever the masses thought, the Directory knew that the fate of France was in his hands; and nothing confirmed that opinion more strongly than the ease with which the law enacted two years before was now enforced. Having made what he considered easy terms with Austria, he had determined to destroy the credit of Pitt's government by attacking English industries and commerce, and, to defy, if necessary, the neutral carriers of the world. It appears to have been at this time that his mind formed

the "Chimæra," as a French historian calls it, which in the end proved his ruin — the conception that, if only the conservative administration of Great Britain could be discredited, the Whigs would adhere to "the republican peace."

The time was not ripe for any attack on England more direct than this; and to occupy the interval until it might become so, the well-worn scheme of harassing her at her extremities was revived. The uneasy Bonaparte was temporarily removed from the scene of the administration by the Egyptian expedition, intended at least to menace English commerce in those distant parts of the earth if not to work the complete ruin of her Oriental empire. But if the time was not ripe to engage in active hostilities for the enforcement of an economic doctrine, this fact was not due to any absence of such doctrine, formulated and avowed.

### § 3. *The Theory of Protection and Exclusion*

The theory of a closed jural state, which had been evolved in defence of the final stage in the formation of European nationality, was itself undergoing an expansion in the direction of expounding the international relations of States in commercial affairs. In 1801 Fichte published his famous treatise entitled *The Closed Commercial State*, his contribution to the literature of Utopias. Defining the jural State as a limited body of men subject to the same laws and to the same coactive sovereignty, he declared that the same body of men ought to be stringently limited to like reciprocity of commerce and industry, and that any one not under the same legislative power and the same coactive force should be excluded from participation in this relation; thus would be formed a closed commercial State parallel to the closed jural State. His treatise was divided into three books entitled, respectively, *Philosophy*, *Contemporary History*, and *Politics*, preceded by an introduction discussing the relation of the rational State to the real, and of pure public law to politics. The first book was merely an elaboration of his idea as to what is just and right within the rational State, in view of trade relations as they are; in the second book he proceeded to discuss the actual condition of commercial intercourse in the existing States; and in the third book he considered how the theory of a closed commercial State was to be realized. The vital portion of his argument lay in the statement that if all Christian Europe, with its colonies and factories in other quarters of the globe, was to be considered as a whole, trade must remain free as it

once was; if, however, it was to be divided into several wholes, each under its own government, it must likewise be divided into several entirely closed commercial States. Said he: —

"Those systems which demand free trade, those claims to the right to buy and sell freely in the whole known world, have been handed down to us from among the ideas of our ancestors, for whom they were suited; we took them without examination and adopted them, and it is with trouble that we substitute others for them."

Seven years later the same philosopher declared, in his better-known *Address to the German Nation*, that the much-vaunted liberty of the seas was a matter entirely indifferent to the Germans. For the preservation of their peculiar genius, he argued, they should be saved from all participation, direct or indirect, in the wealth of other people; otherwise the curse of commercialism would overtake them.

Thus the "idealogues" of Europe, German and French, held identical opinions. They appear to have had multitudes of supporters in all lands. At any rate, it is idle to charge Bonaparte with being the inventor of the rigid protectionist doctrines that he endeavored to apply to the dominions which, when acquired by conquest, he intended to incorporate in a European empire having its capital and administrative seat at Paris. They were held by the men of the Terror in 1793, by the Directory in 1796, by the overwhelming majority of the French people in 1798, and by a respectable number of Germans and of Americans in the years immediately succeeding; while they are still held by immense numbers of those in whom the idea of nationality preponderates over all other political concepts.

### § 4. *Economic Situation at the Truce of Amiens*

The Berlin Decree, which is generally considered to have inaugurated the Continental System in form, is, in fact, antedated by the Orders in Council of Great Britain. During 1801 English commerce was considerably greater than it was during 1802, the year of nominal peace; and this was due, of course, to the fact that the commercial warfare was not even nominally discontinued. The real trouble felt by Lord Whitworth, the British ambassador at Paris, was that the existing commercial situation of his country was intolerable, and that he must find some *casus belli* in order to end it. It is well known that he fixed on a very trivial pretext, —

the conduct of Bonaparte at a public reception in the Tuileries, and that Great Britain had much difficulty in making the flimsy excuse appear important. The fact was that the First Consul was using the peace to extend the protective system of France over all the lands which he had conquered in Northern and Central Italy and to force Holland and Switzerland into his customs union. In consequence English commerce was suffering, and the mission of Sebastiani into the Orient made it seem highly probable to English merchants that the process of further diminishing their trade was already under way in those distant parts. The publication of Sebastiani's report was the last straw in the burden of the British merchants, and they refused to carry the load any longer. Bonaparte said that the independence of a nation carried with it the absolute control of its trade, and that if Great Britain intended to keep both Gibraltar and Malta, she virtually announced by that fact her determination to unite the commerce of the Indies, the Mediterranean, and the Baltic in a single system controlled by herself, which would create a situation intolerable and impossible.

The peace of Amiens was merely a truce, and the only question as to its duration was one of reciprocal forbearance and endurance. As soon as it became clear that neither England nor France would abandon the idea of commercial supremacy, the vital matter of policy on both sides was how to re-open the war. To do this was to assume a fearful burden of responsibility. History is still striving to determine who gave the immediate impulse; for whoever did give it is held responsible for the appalling bloodshed of the Napoleonic as distinguished from the Republican wars. To-day even the English historians of the most enlightened sort admit that France was tricked into the declaration of war. The coalition was in process of formation within a few days after the ink was dry on the treaty of Campo Formio; it was in readiness when hostilities broke out; and the fuel necessary to make the intermittent flickering flames burst forth anew was supplied by the successive Orders in Council.

### § 5. *An English Argument for the Destruction of France*

In 1805 there was printed in London and published anonymously a book which is now believed to have been officially inspired. It was actually written by James Stephen, and the title was *War in Disguise, or the Frauds of the Neutral Flag.* Its argument was the need of the destruction of France to prevent

the ruin of England. The immediate dilemma considered was the sacrifice of Great Britain's maritime rights or a quarrel with the neutral powers. The author thought that the system of licenses — "salt water indulgences," he called them — was shaking England's supremacy exactly as the papal indulgences of the fifteenth century had shaken the Roman supremacy. In attacking neutral trade, he thought there was little danger of provoking hostilities or evoking reprisals. As to America, particularly, a non-importation policy on her part would injure herself alone. She was far too honorable to confiscate the property of English merchants within her borders, and far too shrewd to expose to retributive seizure the enormous commerce which she herself had afloat. Suppose, however, he continued, that neither the sacrifice of maritime rights nor the quarrel with neutral powers be accepted, there remains still a third possibility, — to admit the pretension that "free ships make free goods," to suspend the navigation laws, and then to seize all the benefits of neutral carriers. "Let brooms be put at the mastheads of all our merchantmen, and their seamen be sent to the fleets." This, he argued, would be a less evil than that under which English commerce was suffering, unless, indeed, all parties, including the enemy, would abjure the right of capturing merchant ships of private effects of an enemy — a visionary means of reconciling naval war with commercial peace. Such general abjuration was impossible, and there remained no remedy for England's ills save peace with Bonaparte. But the mere suggestion of this action was preposterous. The insuperable barrier was the British constitution. Austria and Russia might make peace with a military despot; but with a man who employed the leisure of peace for no other purpose than to enslave the smaller powers of the Continent no peace was possible for a free country like England, except such a one as would be equivalent to absolute surrender. As might have been expected, the Englishman who wrote *War in Disguise* concluded his argument with a pious appeal to the Almighty, obedience to whose righteous laws is the soundest political wisdom, and who wills not only the end, but the means — in this case "volunteers, navy, and maritime rights." This temper for war to the bitter end was quite as strong in France as in England; and while the English appealed to God and righteousness, it was equally characteristic that the French were at the same time exploiting a parallel drawn from classical history — that of Rome and Carthage.

## § 6. *Napoleon and Commercial Imperialism*

The Grand Army of England, assembled by Bonaparte at Boulogne, was a two-edged weapon. Napoleon told Metternich that he always intended to use it against Austria, as he actually did use it; but he told the captain of the *Northumberland*, on August 15, 1815, that he had intended the invasion seriously, expecting to land as near London as possible. Although these antipodal statements were clearly intended to flatter the national pride of the respective dignitaries to whom they were addressed, yet, paradoxical as the assertion seems, when taken together they express the exact truth: successful invasion would have involved the immediate overthrow of British power; while protective exclusion and the destruction of the coalition was the slower, perhaps, but the more certain of the two ways. The latter was probably the intention toward which Napoleon leaned most seriously. By compelling the British to maintain a costly war establishment, the great schemer would exhaust their by no means bottomless purse and thus would be able to cripple the equipment of the coalition, to expand by victory the territorial empire of France, and to open the way for her enterprise to the eastward. Finally, Napoleon made no serious effort toward the "Descent," using the notion to extort war funds from the French exactly as the Jacobins and the Directory had done; and the actual fact of the magnificent countermarch toward Vienna and the results of Austerlitz ought to convince us that, while at times he did contemplate invading England, his mind was on the whole directed toward the course he actually pursued, — that of striking at the coalition through Austria.

The extension of the protective system beyond France and the countries immediately under her control began in 1803, when Spain was admonished to observe it or take the consequences; immediately after Austerlitz, Istria, and Dalmatia were included in the system. When, thereupon, Prussia was requested to include the North Sea coasts in its operation, as the price for the occupation of Hanover, Great Britain retorted by her Orders in Council, declaring the shore line from the mouth of the Elbe all the way around as far as Brest to be in a state of blockade. Prussia chose to accept neither the terms of Great Britain nor those of France, and struggled to remain neutral — a sheer impossibility; the Czar of Russia then repudiated the treaty into which his

ambassador, D'Oubril, had been drawn by the wiles of Talleyrand; in due course of time followed Jena and Friedland, and at last the way was clear for turning a protective system hitherto more or less local into one which could be more or less Continental. The Berlin Decree was the longest step possible after Jena; while the Milan Decree was the natural sequence or the enlarged opportunity which the Peace of Tilsit gave for pursuing the same old economic policy.

### § 7. *The Berlin Decree and Montgaillard's Scheme*

In justification of his course, Napoleon pleaded the moderation he had shown in dealing with the enemy after the three first coalitions, and declared in his message to the Senate that he desired such a general European peace as would guarantee the prosperity, not of England alone, but of all the Continental powers; but as the attitude of the enemy rendered this impossible, nothing remained but to adopt measures "which were repugnant to his heart." The Berlin Decree set forth in its preamble that England paid no respect to international law; that she considered as enemies, not alone the organized war power of hostile states, but the persons and vessels of their citizens engaged in commerce, taking the persons prisoners of war and the ships as prizes; that she extended the principle of blockade to unfortified towns, harbors, and river mouths, declaring places to be blockaded before which there were no forces sufficient to enforce the blockade, and extending this absurdity to the coast lines of entire empires; that, finally, since this conduct had no other intention than the ruin of all Europe to the advantage of English trade, "We have resolved to apply to England the usages which she has sanctioned in her maritime legislation." The principles of the decree were asserted to be valid just as long as England should not admit the validity in maritime war of the principles which control war by land; the laws of war cannot be applied, either to private property, whatever it may be, or to the persons of those who are not belligerents, and the right of blockade must be confined in its application to strong places really invested by sufficient forces. The British Isles were then declared in a state of blockade, and all the rigors of the English system were ordered to be carried out in detail. Finally, notification in due form was given to the kings of Spain, Naples, Holland, and Etruria, and to all Napoleon's allies whose citizens were suffering from the "barbarities of English maritime legislation."

The date of the Berlin Decree was November 21, 1806. On July 25, 1805, Montgaillard, a clever scoundrel, — of whom, as Napoleon remarked, something could have been made if he had not been fit for hanging, — wrote a memorial which was presented to Napoleon and is claimed to have been the basis of the Continental System. As expanded on March 24, 1806, this paper represents that England has in view the sole object of destroying the French marine in order to destroy French commerce, and that, consequently, the imperial idea of Europe is one to which she can never accede even by a temporary peace; that she will never renounce her claim to Hanover or permit the occupation of Holland, her ultimate intention being to establish in Egypt a station to protect her commerce by the Red Sea with India. Portugal, which will always side with England, must, therefore, be incorporated with Spain; while Crete and Egypt must be occupied by both military and commercial posts. The influence of England's deep, fierce hostility, it continues, is seen in the refusal of both Austria and Russia to recognize the newly created vassal kingdom of Italy. England arrogated the tyranny of the seas in 1651 by the Navigation Act passed under the Protector; her very existence is founded in traffic and commerce, and without it there is no movement in her body politic. She is forced to disregard all provisions of international law which tend to diminish her commercial strength. William of Orange created her national debt; and successive sovereigns have in their various Continental and American wars increased it to its present dimensions — estimated at about six hundred millions sterling. To carry this enormous obligation and emit the new loans necessary to sustain the respective coalitions, it is essential that her commerce should continuously expand.

"It is through her commerce that England must be attacked [says Montgaillard]; to leave her all her gains in Europe, Asia, and America is to leave her all her arms, to render conflicts and wars eternal. To destroy British commerce is to strike England to the heart."

He then advances the idea which appears to be the germ of the Continental System: Since Russia seems to favor the plans of England, and since Sweden is destitute of both independence and dignity, France must begin the attack on the maritime legislation of the enemy. She has only to make the navigation acts her own, modify them in favor of the powers which accept them, and adopt a policy of reciprocity.

### § 8. *The Flaw in Napoleon's Reasoning*

How far these councils influenced Napoleon it is impossible to say; but the chronological coincidence has some value in support of the claim that Montgaillard at least gave the final impulse to the Emperor. There seems, however, to have been a fatal flaw in the reasoning of both. As the latest Italian commentator has remarked, there was no symptom in either executive or counsellor of any grasp upon the fact that by the amazing development of industry in England the wealth of the entire world had been enormously increased — so enormously that without a corresponding increase in other nations no international rivalry in prosperity and influence was at all possible. It was then, as indeed it is still, generally supposed that England had reached her eminence in commerce by a series of flagrant wrongs; and when the successive steps of aggression and reprisal are chronologically arranged, there is a superficial appearance of truth in the charge. The Orders in Council were iniquitous anachronisms, and they gave a color of justification to the equally barbarous decrees of France — decrees in themselves preposterous, and supported, moreover, by a blockade which was as purely fictitious as that by which Great Britain supported her Orders in Council. The original sketch of the Berlin Decree has been recently discovered in the archives at Paris, and it is very important to note that it does not contemplate that portion of the completed document which covers the lands either allied to or under the influence of France; this provision seems to have been added after long reflection. The natural complement of a fictitious blockade was a fictitious protective system; the one was as absurd as the other.

### § 9. *Extension of Retaliation and Exclusion*

In her puzzled uncertainty, and under the stress of necessity for immediate action of some kind, England took the next false step in the same direction and issued the Orders of January 7, 1807, declaring all the ports, not only of France, but of her colonies, in a state of blockade and throwing down the gauntlet to the neutral States by forbidding any ship to trade between the ports of France, of her colonies, and of the countries in the French system; while on November 11 a new decree extended the inhibition to all ports whatsoever from which the English flag was excluded. This

extreme position was pronounced by Lord Erskine to be unconstitutional and contrary to the law of nations. That it was not intended to be enforced, but was to be used as a pretext to secure maritime monopoly is proved by the fact that already, in the month before, Great Britain had inaugurated the policy of evading her own decrees, raising the blockade of both the Elbe and the Weser, and winking at the contraband trade which immediately sprang up in consequence. Napoleon was therefore untiring in the system of reprisals; on November 23 of the same year he issued the Milan Decree as a retort both to the scheme of contraband trade put into operation at Bremen and Hamburg and to the Orders of November 11; and to supplement this, a second and more rigorous decree was promulgated on December 26, 1807. Any vessel which had suffered the visitation of English cruisers or had put in at an English port was declared thereby to have become English and consequently subject to confiscation; an embargo was also placed on all neutral ships at that time in French harbors. Prussia, Sweden, and Denmark adhered promptly to the new Continental System. England was terrified at the consequences of its own temerity, and on April 26, 1809, modified her orders by limiting the blockade to "all the ports of the so-called kingdom of Holland, of France and her colonies, and of Southern Italy from Orbetello to Pesaro inclusive." Yet, for all this, Austria and Switzerland gave in their adhesion somewhat later; while America stuck to the principle of non-intercourse and finally obtained the revocation in her favor of both the Berlin and the Milan Decrees and, in the end, of the Orders in Council. As is well known, public necessity proved to be stronger than theory; Napoleon's very energy in depriving Continental Europe of colonial and English-made articles which, once regarded as luxuries, had in time become necessities, together with the consequent exasperation of Great Britain at the diminution of her trade, was one of the bonds which combined the most discordant political elements into a union for the destruction of French empire.

### § 10. *The Legal Argument in Justification of English Policy*

The English side of the secular controversy which has raged over the right and wrong of the Continental System has been presented by various writers with great ingenuity and acumen. The seizure of private persons and property on the high seas, runs their argument, was simply the retort to the French decree of 1798

which ordered the execution of all neutral sailors found on English ships; the French had been the first to disregard the law of nations in seizing the property of English merchants on *terra firma* at Leghorn, and from times immemorial the usage of Europe had authorized the seizure of private property on the high seas; the paper blockade, though illegal and absurd, was resorted to under great provocation, because Prussia had occupied Hanover, a territory which belonged, if not to England, at least to the holder of the English crown. It follows, therefore, that every measure taken by England was strictly in the nature of a reprisal. This legal plea is a question to be considered by jurisprudence, partly in the light of the changing identity of France and partly in that of variations of obligation due to the incidents of warfare — such, for example, as the conduct of England at Copenhagen, which was only the culmination of a series of similar acts in the treatment of neutrals. It seems very doubtful whether any legal argument can avail much in explaining the inconsistencies incident to such struggles as the wars which were waged during the Napoleonic epoch.

### § 11. *Economic Justification of English Policy*

The real and paramount plea of England is self-defence; the arguments based on the political and economic emergencies in which she was involved, in consequence of her amazing constitutional and industrial preëminence, have a validity far beyond any which inheres in pleas that are purely technical, and confined at that to the field of international law.

Certain facts recently noted by Rose, the well-known Cambridge historian, throw a flood of light on the miraculous development of English and Scotch industry during the Napoleonic epoch. Robert Owen stated, and in all sobriety, that in 1816 his two thousand operatives at New Lanark accomplished with the aid of the new machinery as much as had been accomplished by all the operatives in Scotland without it! In his autobiography, Owen further emphasizes the extent of the industrial revolution by estimating — and the estimate is conservative — that the work done by the manufacturing population of Great Britain with machinery could not be done without it by a people numbering less than two hundred million. There was no corresponding development of manufactures on the Continent — not even in France; thus it was not until 1812 that steam spinning was introduced into Mulhouse, the great





industrial capital of Alsace. Similar comparisons could be drawn in many other respects between Great Britain and her Continental neighbors; but this single contrast is enough to render very striking the fact that no other power could vie with her in supplying the world with cheap and useful wares of such a sort as to become after a first trial indispensable to the masses of mankind. She found herself, therefore, in the position of being required for the sake of peace to discard all her commercial advantages; all that she had gained in her industrial evolution; all the preëminence, in short, which she held by exertions and sacrifices that had been continuous for centuries.

Does such a situation create no moral obligation? Is it supposable that a nation could consider for an instant the possibility of destroying itself and its inheritance, for the sake of peace which would surrender all its advantages to an active and irreconcilable enemy? If there were no alternative except war or suicide, is Great Britain to be blamed for choosing war, however desperate? Moreover there is another consideration of the first importance which has a moral quality universally recognized in other spheres. By common consent no occupation of discovered land holds good if it be not permanent and beneficent; and likewise the closed economic state cannot be permanent unless it prove to be universally beneficent. Such a state now appears to be as uncertain in its operations as the closed jural State has proved to be under the operation of international agreements which assist one nation to enforce its municipal law by the sanction of another. Extradition treaties and other equally pregnant innovations in international law are now generally admitted to have a jural validity, in many of the most important relations of men, that is both higher and stronger than that of the municipal law of the various States which compose the present federation of civilized powers.

In the same way — tacitly, perhaps, but none the less really — it is coming to be widely conceded that the markets of the world cannot be closed to wares so good and so cheap as to be necessary for the ever-rising standard of comfortable living demanded by wage-earners in every land, except on condition that such wares can be produced sooner or later as well and as cheaply in the land which protects itself against others of its own class. This feeling is the cause of that deep-rooted enmity of the masses to the customs gatherer and his kind — a feeling which makes them the most adroit and unscrupulous smugglers. The dislike they have

of the travelling and smuggling of the rich is largely created by the knowledge, or at least the certitude they feel, that thereby the rich secure as buyers in the world's markets advantages which are not open to themselves. It is needless to explain that no inkling of such a temper, however common in earlier generations, is discoverable in the England of Napoleonic times; but the selfishness expressed in the Orders in Council was the cover for a growing instinct that later became an avowed principle, which is apparently destined to be erected into a moral and jural right, of validity among all civilized peoples — the right to secure, wherever they can best be obtained, what are generally regarded as the essentials of a high standard of life.

The present cry of the labor agitators for what they call a "living wage" means for the protectionist State one of two things: either it must tax itself to pay a scale of wages which will secure the desired well-being to the wage-earners within its borders, or it must make the wages actually paid capable of purchasing this well-being by opening home markets to the competition of the low-wage countries. This notion has already been so far entertained as to result in the admission, duty free, into all protectionist lands of such articles as are not of native growth or manufacture; and the only plea for high protection which is now considered valid is based on the assumption that exorbitant duties are only temporary and must be removed as soon as the infant manufactures which they protect can walk alone and compete in the markets of the world. The spread of free-trade doctrine is everywhere conterminous with the spread of free-trade ability. The criterion of personal and of national success is ultimately the same: power of any kind will create activity and a field for that activity; and the greater the power, the wider the field which it will preëmpt. Apparently this has been true in spite of both artificial and so-called natural barriers. Human ability is shown by history to be like natural energy: personal or collective, it is infinitely transformable and can be directed into all channels. The mountain waterfall drives the trolley-car, which at the same time it both heats and lights; the toil of the artisan and the laborer together with the enterprise of the manufacturer and the merchant, moves armies and fleets, secures settlements and markets in all lands, creates public and even cosmopolitan opinion — in short, directs the course of empire throughout the world.

### § 12. *Evasions of the Continental System*

The effort of Great Britain to establish a monopoly of ocean commerce was accompanied by one immoral incident of the most far-reaching importance — the inauguration of a licensing system whereby, with simulated papers, vessels of any origin successfully evaded the provisions of both the British orders and the French decrees. This procedure for a time debauched the commerce of the world, and was a fit supplement to the acts of violence severely reprobated both then and since. In the main, fraud and violence brought greater profit to France than to Great Britain. The relaxation in 1798 of the rule of 1756 had accrued to the advantage of the only strict neutral power of the world, viz., the United States; the orders and the decrees so hampered and exasperated our merchants that we first passed the Embargo Act and then took refuge in non-intercourse. By that time English commerce had so seriously declined under the working of the Continental System that violent agitation against the orders was inaugurated in Great Britain itself. Almost at that very moment, however, Napoleon drove the reigning house of Portugal to Brazil, and thus opened the most important ports of South America to British importations. The glut of the English storehouses was thus momentarily relieved; and, while the merchants suffered serious loss from the low prices they received, they were saved from absolute bankruptcy. For two years longer the struggle on both sides was continued with desperation, and would probably have resulted in the despair of Great Britain had not the improved methods of agriculture, introduced along with the improved methods in manufacturing, made it possible to feed for some time longer the still comparatively small population by means of home production.

### § 13. *The Sources of British Strength*

This was the interval which brought matters to a crisis on the Continent. Great Britain could get on very well without the silks and other luxuries produced in France, substituting for them woollens and cottons; but English cruisers made almost impossible the importation into Europe not only of colonial necessities, but also of the raw materials necessary for indispensable manufactures. By the system of licenses alone was it possible to maintain the

French army; cloth and leather wherewith to outfit Napoleon's soldiers were brought from England into the Hanseatic ports in open contempt of the Continental System. Since Great Britain also held the monopoly of coffee, tea, and sugar, without which the not more than half-hearted Germans of the Rhine Confederation would not live, and which Napoleon did not dare to cut off entirely from even the French and Italians, it was thought that the only possible reprisals against her not already instituted would be in the line of further restrictions on her manufactures. During the late summer and early autumn of 1810 were promulgated the three decrees of Trianon, St. Cloud, and Fontainebleau; and not only were enormous duties imposed on all colonial products wherever found, but all English goods discovered in the lands of the French system were to be burnt. Neutral ships, including those of the United States, were at the same time utterly shut out from all the harbors of these lands.

This was the beginning of the end; for in the effort to destroy the English sea power by condemning it to inanition, Napoleon deprived the manufacturers in his own lands of all their raw materials. Even if this had not been a sufficient cause, their manufacturing plants were not modern enough to have supplied the markets open to them. Russia endured the miseries of privation for but a single year and in 1811 opened her ports; while smuggling on her boundary lines at once assumed dimensions, which rendered anything approaching an administration of the Continental System the work of an army of customs officers, so that after 1812 the effort to enforce it was necessarily abandoned. Our declaration of war with England came too late to exert any influence, one way or the other, on the final solution of the question whether sea power or land power was the stronger in the civilized world at the opening of this century. The death throes of Napoleon's imperial system were primarily caused by the exhaustion of France and of himself; when he made himself a dynastic ruler, his prestige and his inherent strength were dissipated as rapidly as were those of the popes when they joined the ranks of the petty princes of Italy. Possibly an empire of United Europe based on the liberal ideas of the day might have had some chance for life, but a single dynastic power pitted against all the dynasties of the Continent, and also against the moral strength of British preeminence in politics and industry, had none at all. It is a mistake to regard the Continental System as an influential cause of Napoleon's overthrow, except in so far as it displayed the folly

of attempting to apply what is at best a temporary national expedient as a permanent principle in a world system. The effort did cripple the resources of France and alienate much Continental sympathy from the Emperor, and it embittered Great Britain to the point of desperation; but the result of the struggle to found a Napoleonic hierarchy of two degrees on the States of the Continent was otherwise determined. It was decided by the national uprisings which began in Spain and ended with the consolidation of dynastic influence in the Holy Alliance.

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# PART VIII

## THE AGE OF REFORM

## CHAPTER I

### THE OLD PARLIAMENTARY SYSTEM

In its origin and development the Parliamentary system of England had never been shaped according to any logical or democratic principles. On the eve of the great Reform Bill of 1832, it rested on customs which had grown up gradually and on statutes which had been passed to meet specific problems. Consequently it presented many grievances especially to the manufacturing and working classes which had sprung up as a result of the industrial revolution. The franchise was restricted and unequal, representatives were not apportioned according to population, and the government was corrupt. It is of prime importance, therefore, that the old Parliamentary system should be studied as a preliminary to an understanding of the great measures which transformed England into a political democracy.

### § 1. *Means of Communication and Politics* [1]

There is at the present time no town in either England or Wales which a man cannot reach in a twelve hours' journey from London. He may be whirled from the metropolis to York or from York to the metropolis in four hours. Two hundred years ago a gentleman would have thought himself fortunate if he had been able to reach London from Northumberland in a week. A coach in 1706 undertook with the blessing of God to convey persons from London to York in four days. The facilities which roads and

[1] Walpole, *History of England since 1815*, Vol. I, pp. 114 ff. By permission of Longmans, Green, & Company, Publishers.

railways have afforded to travellers have indirectly led to an alteration in the composition of the House of Commons. Parliamentary reform might have been almost indefinitely delayed, if it had not been for Telford, Brindley, and Stephenson.

In the days when travelling was difficult and dangerous, the right of representation was of little value. A journey from London to Northumberland was a more hazardous operation than a journey to New York is now; and the burgesses, who were entitled to send members to Parliament, found it difficult to obtain persons who were willing to act as their representatives. It became necessary to adopt the practice of making some allowance to the people who were thus selected, and the borough member became in consequence a paid delegate, and not an unpaid representative. In such a state of things the privilege of representation was naturally of little value. Places which had originally enjoyed the right of returning members ceased to exercise it. Places in which the crown or some wealthy person had influence were given the right, and no one ever questioned the power of the crown to grant it. The Tudor sovereigns created borough after borough; but the creations attracted no attention.

The great contest of the seventeenth century fundamentally altered the position of the House of Commons. By asserting its right to exercise a decisive control over the government of the country, the House established its position and its influence. Almost at the same time some progress was made towards better, cheaper, and quicker travelling. Parliament complained that country gentlemen were coming to London, instead of staying at home. They failed to observe that the causes, which were collecting all the country gentlemen into one centre, were contributing to increase the influence of the House of Commons. Yet there can hardly be a question that this was the case. The moment that it became the fashion for a country gentleman to spend a certain period of each year in London, all the apprehensions connected with the journey disappeared. No further difficulty was experienced in obtaining members for each borough, and a seat in Parliament became of value from the social influence and the position which it gave. In the meanwhile other parts of England shared the increasing prosperity which was visible in the metropolis. New centres of industry acquired fresh importance, while the old boroughs, in which the county families had met together, either ceased to grow or began slowly to decay.

### § 2. *Population and Representation*

Population was slowly gravitating to particular centres; and the House of Commons, while the country was changing, suddenly resisted further changes in its constitution. Before the seventeenth century the constitution of the House of Commons had been constantly altered. Henry VIII created seventeen new boroughs, Edward VI fourteen new boroughs, Mary ten new boroughs, Elizabeth twenty-four new boroughs, and James I four new boroughs. Charles II gave members to Durham and Newark; but, with this exception, no new borough was created, either in England or Wales, from the death of James I to the Reform Bill of 1832. The House of Commons, after the Restoration, took the issue of writs into its own hands, and declined to recognize those which had been issued by the crown. The constitution of the House of Commons was thus stereotyped, for the first time in English history, at the time at which the population of England was being collected in fresh centres. The representation of the people was becoming more unequal, and no attempt to redress the inequalities was made.

At the period at which this history opens the House of Commons consisted of 658 members: 489 of these were returned by England, 100 by Ireland, 45 by Scotland, and 24 by Wales. The representation of England was more unequal than that of either of the other divisions of the kingdom. The 10 southern counties of England contained a population of about 2,900,000 souls, and returned 237 members to Parliament. The 30 other counties of England contained a population of more than 8,350,000 souls, and returned 252 members to Parliament. A little more than a fourth of the population returned very nearly one-half of the whole of the English representatives. Scotland contained a population of nearly 2,000,000 persons; Cornwall contained rather more than a quarter of a million of people. Yet all Scotland returned only 45 members, while the county of Cornwall returned 44.

Representation then bore no proportion to population; and the population, as a matter of fact, had little or nothing to do with the representation. It was stated in 1793 that the majority of the House of Commons was "elected by less than 15,000 electors." Seventy members were elected by 34 places, in which "it would be to trifle with patience to mention any number of voters whatever, the election being notoriously a mere

matter of form." . . . Two hundred and ninety-four members, being a majority of the entire House of Commons in 1793, were returned by constituencies, none of which had 250 and in the great majority of which there were not 100 voters. There were not 4000 electors in all Scotland.

Fifteen thousand electors nominally returned a majority of the whole House of Commons in 1793. But the share which these 15,000 individuals had in the election was purely nominal. One hundred and seventy-two of the English and Welsh members were returned on the direct nomination of the Treasury or of individuals, and 137 other members owed their return to the influence either of the Treasury or of individuals. The 45 Scotch members were nominated by 35 persons. Three hundred and fifty-four members were therefore returned on the recommendation of the Treasury or of some patron. The union with Ireland, in 1801, added 100 members to the roll of the House of Commons. But 51 of these were returned by 36 peers, and 20 by 19 commoners. The union had increased the roll of the House to 658, and 424 of the 658 members were returned either on the nomination, or on the recommendation of patrons.

### § 3. *Political Power of the Peers*

At the commencement of every session the House was in the habit of resolving that "it is a high infringement upon the liberties and privileges of the Commons of Great Britain, for any Lord of Parliament, or any Lord-Lieutenant of a county, to concern themselves in the election of members to serve for the Commons in Parliament." Yet 245 members were notoriously returned by the influence of 128 peers. Lord Lonsdale, from returning nine members, was commonly known as "the premier's cat-o'-nine-tails." The Duke of Newcastle, Lord Buckingham, Lord Mount Edgecumbe, and Lord Eliot returned, in 1793, six members each. The Duke of Marlborough and Lord Fitzwilliam, five each. The Duke of Northumberland, the Duke of Bedford, the Duke of Rutland, Lord Ailesbury, and Lord Stafford, four each. The Duke of Beaufort, Lord Sandwich, Lord Foley, and Lord Uxbridge, three each. Such was the state of things in 1793.

The strength of the great political peers did not lie in the boroughs alone. Many of the English counties returned, as a matter of course, the nominees of the great landowners. It was a common saying, attributed to Fox, that Yorkshire and Middlesex between

them made all England. Yet, even in Yorkshire, the contest rather lay between the Lascelles and the Fitzwilliams than the aristocracy and the people. Up to 1780 the member for Yorkshire had always been elected in Lord Rockingham's dining room. If such was the state of things in Yorkshire, it is easy to imagine what occurred in less populous counties. A contested election in many counties was a rare occurrence. It was found in 1831 that there were no poll-books in Denbighshire. There had been no contest for a hundred years in Cheshire, in Nottinghamshire, and Cardiganshire. There had been no contest for nearly fifty years in Anglesey; and there had been no contest for twenty years in Derbyshire, Gloucestershire, Hertfordshire, Lancashire, Monmouthshire, Radnorshire, Flintshire, and Rutland.

### § 4. *Scotch and Irish Conditions*

The condition of the Scotch counties was even worse. In England every forty-shilling freeholder was a voter. Manufacturers, large tenant farmers, opulent and important inhabitants, were excluded from the franchise unless they happened to possess a little land; but every landowner, not disqualified by religion, by age, or by sex, had a vote. But in Scotland the landowners had nothing whatever to do with the representation. The franchise was vested in the owners of superiorities; and these superiorities had the entire representation in their hands. Any owner of a superiority, producing £400 a year, was entitled to a vote; and the superiorities were cut up into different parcels of four hundred a year each, for the sake of giving votes. The owner of the superiority, as the direct grant from the crown was called, had not necessarily any land in the county; he did not necessarily reside in it, yet no one except the owner of a superiority was allowed a vote.

The whole number of county electors in Scotland was variously estimated at from 2500 to 2900 persons. Fife was said to contain 240 voters, Cromarty only 9! Scott mentions incidentally that young Harden was returned for Roxburghshire, at the memorable election of 1831, by a "great majority of 40 to 19"! Yet Roxburgh had a population of more than 40,000 persons. "The county of Bute, with a population of 14,000, had 21 electors, of whom only one resided in the county." "At an election at Bute, not beyond the memory of man," said the Lord Advocate in 1831, "only one person attended the meeting, except the

sheriff and the returning officer. He, of course, took the chair, constituted the meeting, called over the roll of freeholders, answered to his own name, took the vote as to the preses, and elected himself. He then moved and seconded his own nomination, put the question to the vote, and was unanimously returned." . . .

### § 5. *Borough Constituencies*

It was, however, in the boroughs that the great governing families exercised their chief authority. The borough constituency varied in different places. In some boroughs in England and Wales, and in every borough in Scotland, the members were returned by the corporation. The corporations were, at that time (1815), unreformed; they were usually self-elected, and the provisions of the Test Act effectually excluded all Roman Catholics from sitting upon them. In some places in England and Wales the members were returned by the inhabitants paying scot and lot, or in other words by the ratepayers; while in other places the potwallers or potwallopers — or all the resident inhabitants who paid for their own subsistence — had a vote. In some places, again, the franchise was divided among these various classes.

This variety of franchise created almost endless confusion. "Your honorable house," said the petitioners of 1793, "is but too well acquainted with the tedious, intricate, and expensive scenes of litigation which have been brought before you in attempting to settle the legal import of those numerous distinctions which perplex and confound the present rights of voting. How many months of your valuable time have been wasted in listening to the wrangling of lawyers upon the various species of burgagehold, leasehold, and freehold. How many committees have been occupied in investigating the nature of scot and lot, potwallers, commonalty, populacy, resiant inhabitants, and inhabitants at large. What labor and research have been employed in endeavoring to ascertain the legal claim of boroughmen, aldermen, portmen, selectmen, burgesses, and councilmen; and what confusion has arisen from the complicated operation of clashing charters, from freemen, resident and non-resident, and from the different modes of obtaining the freedom of corporations by birth, by servitude, by marriage, by redemption, by election, and by purchase." Complicated, however, as these tenures were, there was one characteristic which was common to nearly all of them. The patron exercised an unbounded influence in the borough. In some cases

the corporation, in other cases the inhabitants, in others again the ratepayers, nominally elected the members. Corporation, inhabitants, ratepayers, were all agreed in voting for the patron's nominee.

A few prominent examples will illustrate the position of the old boroughs. Lord Beverly's borough of Beeralston had only one house in it rated at over £10 a year; Mr. Bankes' borough of Corfe Castle was a cluster of cottages round a venerable ruin. Lord Calthorpe's borough of Bramber was an agricultural district inhabited by about 100 persons. Lord Monson's borough of Gatton was a gentleman's park. Lord Caledon's borough of Old Sarum was a green mound. Lord Huntingfield's borough of Dunwich had been submerged for centuries beneath the North Sea. There were 13 electors in Malmesbury, none of whom could write. The 19 electors of Helston voted unanimously with the Duke of Leeds. There were 310 electors in Arundel, but 195 voted with the Duke of Norfolk. At the general election of 1818 Lord Falmouth on one side, and the regent on the other, made the utmost endeavor to carry Truro. After a ruinous contest, Lord Falmouth's candidates polled 12; the regent's, 11 votes. These examples were, at the time, so notorious, that grave men thought that there was nothing ludicrous in gravely stating them. It seems hardly to have occurred to the politicians of that time that there was anything ridiculous in the mention of a contest between 12 electors on the one side and 11 on the other.

### § 6. *The Traffic in Boroughs*

The borough owners disposed of their property in different ways. All of them acted on the blunt maxim which the Duke of Newcastle propounded in 1829, "Have I not the right to do what I like with my own?" But, though they were probably unanimous in agreeing with the duke, they did not all carry out their theory in the same manner. Some borough owners simply sold their boroughs to the highest bidder. Ten thousand pounds was commonly offered for the two seats during a single Parliament. Other borough owners again sold their seats, at a regular price, to members of their own party. Lord Mount Edgecumbe, for instance, used to receive £2000 from each of his candidates for Lostwithiel. Some portion of the £4000 which he thus received was distributed by him as plate money to the 20 or 30 electors of the borough. Another portion was devoted to local objects and to

subsidizing the borough funds. The residue found its way to the patron's pocket. Other borough owners placed their patronage at the disposal of their party, or nominated their own relations or their own friends. An act was, indeed, passed in 1809 to stop this traffic, but the traffic still continued. It was stated in a petition to the House of Commons in 1817 that seats were bought and sold like tickets in the opera. The best men saw nothing disgraceful in breaking the law and in buying a seat. Romilly declared in 1805 that he had formed "an unalterable resolution never to come into Parliament," unless he held a public office, "but by a popular election or by paying the common price" for his seat. Ricardo was nominated for Portarlington, in return for a loan of £40,000 or £50,000 with which he accommodated the patron of the borough. . . .

### § 7. *Bribery and Sale of Representation*

The whole of the boroughs, however, were not at the disposal of any patron. In some places the constituency was free to return a candidate of its own choice. A few of the largest towns really prided themselves on securing the success of what was called a popular candidate, but even these places were disgraced by scenes which now seem incredible. Lord J. Russell stated in the House of Commons in 1831 that if an intelligent foreigner were taken to a great and opulent town, Liverpool for instance, "he would see bribery prevail to the greatest extent; he would see men openly paid for their votes." An election in Westminster involved a fortnight of riot and drunkenness. When Brougham stood for Liverpool it was recorded that two or three men were killed, but that the town was quiet. A riot, in which only two or three men lost their lives, was thought hardly worth noticing. "By long-established custom the single vote of a resident elector at Hull was rewarded with a donation of two guineas; four were paid for a plumper; and the expenses of a freeman's journey from London averaged £10 apiece. The letter of the law was not broken, because the money was not paid till the last day on which election petitions could be presented." At Stafford £7 was given for a single vote, £14 for a plumper, to be paid for about a twelvemonth after the election. "The price of votes (at Maidstone) was as regularly fixed as the price of bread — so much for a single vote and so much for a plumper." There were about two hundred and forty electors at Abingdon, seventy of whom took money.

Lord Cochrane admitted in the House of Commons that after his return for Honiton, he sent the town crier around the borough to tell the voters to go to the chief banker for £10 10s. each. In 1766 Sudbury shamelessly offered itself for sale. In 1768 the corporation of Oxford sold the representation of the city to the Duke of Marlborough and Lord Abingdon. In 1826 the borough of Leicester spent £10,000 in securing the election of a political partisan. . . .

Bribery and drunkenness were encouraged by the law which protracted the taking of the poll. Rapid polling was indeed impossible. In 1807, for example, the poll clerk at Horsham had to take "down the description of every burgage tenement from the deeds of the voters." Only seventy-three electors were polled, but the complicated process occupied the greater part of two days. It may easily be imagined that in larger constituencies a process of this kind must have taken not days but weeks; and the law allowed the poll to be open for weeks. At the general election of 1784 the contest for Westminster continued for upwards of six weeks, and was followed by a scrutiny which lasted for the best part of a year. But the scandals connected with this election were too great even for the politicians of the eighteenth century. A law was passed "limiting every poll to fifteen days, and closing a scrutiny within thirty days after the close of the poll." But this law, though it undoubtedly constituted a great reform, still permitted the most inordinate expenditure. In the great struggles in 1807, when Wilberforce, Lord Milton, and Lascelles were engaged in a triangular contest for the representation of Yorkshire, the poll was kept open for the full legal period of fifteen days, and Lord Milton and Lascelles spent between them £200,000. The lavish expenditure, inseparable from a contested election in a popular constituency, increased the influence of a few territorial magnates. It was hardly worth any man's while to waste a fortune on a single contest; and the expense of a county election gave, therefore, a monopoly of the representation to a few great families.

Bribery was indirectly encouraged by another circumstance. In theory everybody reprobated it; in practice everybody laughed at it. Up to 1770 election petitions were tried in the whole House, and the decision of the House was avowedly pronounced on party grounds, and had no reference to the merits of the case. Sir Robert Walpole was driven from office by an adverse vote on the Chippenham election petition. In 1770 George Grenville persuaded Parliament to adopt a little better system. Under the

Grenville Act a committee was appointed to try the election. Forty-nine members were chosen by ballot; each party to the petition had the right of objecting to eighteen of these names; the remaining thirteen, associated with two others, one of whom was nominated on either side of the House, constituted the tribunal to determine the election. The Grenville committees, as they were commonly called, were far better tribunals than the whole House for determining the legality of an election. But the Grenville committees were as much influenced as the House had been by party considerations. In a committee of fifteen members one party or the other was necessarily in the majority, and the members usually voted with their political friends and disregarded their own conclusions. A tribunal of this description was not likely to stamp out bribery; and bribery consequently continued unchecked and unreproved.

## § 8. *The Spoils of Office*

At the time, then, at which this history commences, the constituencies were divisible into two classes: some places were notoriously corrupt; others were notoriously in the hands of the landed interest. The class which thus enjoyed a monopoly of political power obtained its full share of the good things of this world. A political career was indeed a lottery, but it was a lottery in which the prizes were very large, and in which even moderate success was rewarded with extravagant liberality. A successful politician could easily insure his own affluence, and could usually obtain a comfortable provision for his children. Lord Grenville, on retiring in 1801, secured a pension of £1500 a year for Lady Grenville. Yet Lord Grenville was auditor of the Exchequer, a sinecure producing £4000 a year, and his younger brother, Thomas Grenville, received upwards of £2000 a year as one of the chief justices in eyre. The Duke of Portland succeeded Lord Grenville. His son, Lord William Bentinck, received £1131 as clerk of the pipe in the Exchequer, and £2511 as colonel of the 11th Dragoons. . . .

These are a few instances of the extravagant provisions which successful politicians and successful lawyers were allowed to make for their posterity or for themselves. It would be easy to extend the list to an almost indefinite length. It is difficult to define the duties of a teller of the Exchequer, yet four tellers of the Exchequer drew no less than £2600 a year each. No duties of special

importance were attached to the registrarship of the Court of Admiralty; yet Lord Arden, the registrar, drew at least £10,000 a year. The chief clerkship of the House of Commons would have been adequately paid with £2000 a year, and the fees of the office amounted to six times that sum. The fees of the clerk of the pleas in Ireland amounted to £10,000 a year; his deputy received no less than £7000, not one shilling of which, according to a high authority, was legal.

Pensions and places were not the only rewards at the disposal of successful statesmen and successful lawyers. Peerages were granted with a prodigality which exceeds belief, and pensions were in their turn bestowed to support the peerages which had thus been created. "The far greater part of the peers," wrote Queen Caroline to George IV in 1820, "hold by themselves and their families offices, pensions, and emoluments, solely at the will and pleasure of your Majesty. There are more than four-fifths of the peers in this situation!" "More than half of the present House of Lords," said Wilberforce in 1811, "has been created or gifted with their titles since I came into Parliament in 1780." "No great thinkers, no great writers, no great orators, no great statesmen, none of the true nobility of the land, were to be found among the spurious nobles created by George III." They consisted chiefly of "mere lawyers" and "country gentlemen remarkable for nothing but their wealth, and the number of votes their wealth enabled them to control."

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## CHAPTER II

### THE REFORM BILL OF 1832

THE undemocratic and curious political conditions described in the previous chapter had long been the subject of comment by statesmen and philosophers; in Cromwell's time an attempt had been made at Parliamentary reform by giving representatives to larger towns and striking small boroughs from the list. This reform, which Clarendon thought worthy of a better time, was cancelled on the accession of the Stuarts. From the middle of the eighteenth century, however, Parliamentary reform was the subject of agitation. After the close of the Napoleonic wars the contest for reform was continued with almost revolutionary fervor, and in 1830 it became apparent to the governing classes that further opposition was dangerous. Wellington, the great champion of the old order, was forced to resign in favor of the Grey ministry dominated by Whigs and moderates.

### § 1. *Introduction of the Reform Bill by Lord John Russell*[1]

The Cabinet decided that the Reform Bill should be introduced by Russell, the paymaster of the forces. Various reasons induced them to arrive at this decision. Russell had for more than ten years actively promoted the reform of Parliament. A bill which was brought forward on his responsibility was, therefore, sure of favorable consideration from the Reformers. Russell, moreover, was a younger son of the Duke of Bedford; the duke was one of the largest territorial magnates in the country; he was the proprietor of rotten boroughs, and a bill recommended by his son's authority was likely to reassure timid or wavering politicians. Something was, indeed, necessary to infuse spirit into the hearts

[1] Walpole, *History of England since 1815*, Vol. III, chap. xi. By permission of Longmans, Green, & Company, Publishers.

of the Reformers in Parliament. Outside the House a crowd
people, anxiously collected throughout the greater portion of t
day, testified their anxiety for the success of the measure whi
was about to be introduced. But inside the House, Russell w
confronted by a compact body of Tories, anxious to learn what t
ministry were about to propose, but ready to forget their ow
differences in their dislike for all reform. Those who had expect
a great declamatory speech from the introducer of the measu
were disappointed. Russell told his tale in the plainest languag
But the tale which he had to tell required no extraordinary el
quence to adorn it. The Radicals had not dared to expect, t
Tories, in their wildest fears, had not apprehended, so comple
a measure. Enthusiasm was visible on one side of the Hous
consternation and dismay on the other. At last, when Russe
read the list of boroughs which were doomed to extinction, t
Tories hoped that the completeness of the measure would insu
its defeat. Forgetting their fears, they began to be amused, an
burst into peals of derisive laughter.

### § 2. *Debate on the Bill*

Men of large experience believed that if Peel had risen t
moment Russell sat down, and had declined to discuss a b
which was not a measure of "reform but of revolution," the Hou
would have refused to allow the bill to be introduced. It is ve
unlikely, however, that such a result would have ensued. To
members, like Inglis, had come down to the House primed wi
arguments to prove that little fishing villages in Cornwall we
better qualified to return members than the great manufacturi
towns of Yorkshire and Lancashire. Tory members, like Ingli
who had searched through Camden and Hatsell, Henry and Rapi
Hallam and Burke, who had telling quotations in their pocke
from Horne Tooke's writings and Canning's speeches, would hard
have consented to waste all their labor by smothering the new-bo
infant in the hour of its birth. The House, instead of dividin
talked through the night and adjourned till the morrow. T
debate, thus adjourned, was protracted over seven nights; b
every fresh adjournment strengthened the hands of the minist
and weakened those of the Opposition. The measure, which h
excited derision in the House, was received with enthusiasm o
of doors. Resolutions supporting the bill were passed at monst
meetings in all the large towns. Moderate members, warned

the attitude of the country, declined to commit themselves to an uncompromising opposition to it; and the bill, which might possibly have been thrown out on the 1st of March, was read a first time without a division on the 9th.

The Tories, however, had neither reconciled themselves to the bill nor withdrawn their opposition to it. The second reading was fixed for Monday, the 21st of March. On the preceding Friday the government was defeated on the timber duties, and the thoroughness of the defeat raised the drooping spirits of the Opposition. Ministers, indeed, hoped for a considerable majority upon the second reading; but, like prudent men, they desired to prepare for the consequences of defeat, and to obtain the king's permission, in that contingency, to dissolve Parliament. The king, however, shrank from the proposal to appeal to an excited population, and could not bring himself to face the consequences of a general election either in England or in Ireland. Ministers failed to obtain the permission, which they again and again urged him to give them. Happily, however, dissolution at that stage did not become necessary. After two nights' debate the bill was read a second time by 302 votes to 301, or by a narrow majority of one. The pressure of public opinion had thus defeated the united efforts of all the boroughmongers. The representatives of great constituencies, like Sir Thomas Acland, the member for Devonshire, and Mr. Wilson Patten, who had lately been returned for Lancashire, felt the full force of the popular movement, and voted for the bill. Even Charles Wynn, who had been frightened by the immensity of the scheme into resigning his office in the ministry, silently supported it; and the necessity for the dissolution was for the moment avoided.

### § 3. *Defeat of the Government and Dissolution*

The majority by which the bill had been read a second time was so small that the ministry could hardly hope to carry the measure through its later stages. Prudent men, who disliked reform, but dreaded the alternative of a popular commotion, hoped that the bill might be silently rejected by an adverse division in committee. The bill, however, was not destined to survive to this stage. Gascoyne, the member for Liverpool, proposed a preliminary resolution that the number of representatives in England and Wales should not be diminished. It was obvious that the whole strength of the Tory party would rally in Gascoyne's sup-

port, and the ministry accordingly decided to meet the motion by a slight concession. Five boroughs were taken out of Schedule A and transferred to Schedule B. Seven boroughs were taken out of Schedule B.[1] Eight counties and seven large towns were given an additional member, and additional members were awarded to Ireland and to one other large town. But these concessions did not conciliate the Opposition. Men like Sir Thomas Acland, Mr. Wilson Patten, and Charles Wynn, who had supported the government on the second reading, ventured on opposing it on Gascoyne's motion, and the ministry was accordingly defeated by 299 votes to 291.

This division, which took place on the 19th of April, proved fatal to the Reform Bill and to the Parliament of 1830. The Cabinet, on the following morning, decided on recommending a dissolution. The king, after four-and-twenty hours' consideration, gave his consent to it. The ministers at once announced that the bill would not be proceeded with, and endeavored to go on with the ordinary business of the evening. The Opposition, however, declined to enter into the discussion of the estimates, which happened to be before the House, and raised a confused and desultory debate on reform. The night wore away; supply had not been granted; and the Opposition, showing no signs of concession, moved the adjournment of the debate. The motion was met with all the resistance which ministers could offer to it; but the defeat of the previous evening had lessened their influence. They were beaten by 164 votes to 142, and the adjournment was consequently carried.

The division hastened the dissolution, which in any event would have taken place. Before the debate was closed Althorp sent word to Grey that the supplies could not be obtained, and that, in his opinion, the dissolution ought to take place at once. Grey happened to be dining, with several other members of the Cabinet, with his son-in-law, Durham. A council was immediately held, at which it was decided to act on Althorp's advice. A messenger was at once sent to the king; and the king, on the same evening, approved the dissolution. Orders were accordingly given to the clerk of the council directing him the next day to bring to the palace the papers which are required when Parliament is to be dissolved by commission. But, on the following morning, the Cabinet dis-

[1] Schedule A contained a list of boroughs completely disfranchised; Schedule B those semi-disfranchised.

covered that this arrangement would not be satisfactory. Lord Wharncliffe had given notice of a motion for an address to the crown against a dissolution. The Opposition peers had made up their minds to carry this address, and the ministry was equally desirous to prevent its adoption. If Parliament, however, were prorogued by commission, the adoption of the address could not be prevented. Before admitting the commissioners the House of Lords was entitled to dispose of the business before it; and the Opposition peers could not, therefore, be stopped, unless the king himself consented to dissolve Parliament in person. Fortunately for the ministry, the king's consent was easily procured. However much he had originally disliked the proposal for a dissolution, he disliked much more the attempt which was to be made in the House of Lords to interfere with his prerogative to dissolve. He declared that he would go himself at once; that, if his carriages could not be got ready, he would go in a hackney-coach. Trumpery difficulties, raised by some of his household, about preparing the state carriages and plaiting the horses' manes, might have proved impassable mountains in the reign of George — they were only molehills in the reign of William.

On the afternoon on which the dissolution took place the House of Lords met at two, the House of Commons at half-past two. The impending dissolution had just become known, and both houses were the scene of disorder and confusion rarely witnessed in Parliament. In the House of Commons the violence was sufficiently marked. In the House of Lords the peers were nearly coming to blows. Wharncliffe had barely time to read his motion before his speech was stopped by shouts of "The king!" Brougham increased the uproar by angrily declaring that the House of Commons had thought fit to take the extreme and unprecedented step of refusing the supplies. The complaint only increased the anger of the Tories. Brougham was hooted. Londonderry shook his fist at Richmond. The peeresses who had come to look at the king trembled in the gallery. The king himself, alarmed at the uproar, hesitated for a moment to enter the House. Brougham, however, easily persuaded him that the indecorous uproar would be hushed by his presence. He came, and told his turbulent legislators that he had come to prorogue the Parliament, with a view to its immediate dissolution.

### § 4. *The Election and the New Parliament*

The consternation of the Opposition at the sudden dissolution of the Parliament of 1830 was exceeded by the enthusiasm which was created by the news of it in the country: London was illuminated; Tory peers had their windows broken by the mob; and even the great services of Wellington did not protect Apsley House from damage. Every one was required to illuminate, and duke or citizen who failed to manifest his participation in the universal elation had to pay the penalty for his indifference to the general rejoicing. The illumination of the streets of London was, however, only one symptom of the general excitement. From John-o'-Groat's to the Land's End a cry was raised of "The bill, the whole bill, and nothing but the bill." Printed lists were circulated, stating the manner in which each member had voted on Gascoyne's motion. Every one who had directly or indirectly opposed reform incurred the full animosity of the populace. Gascoyne himself was defeated at Liverpool; Sir Robert Wilson, an ardent Reformer on most points, lost his seat at Southwark for having supported Gascoyne. County members like Vyvyan, the member for Cornwall, Knatchbull, the member for Kent, and Bankes, the member for Dorsetshire, were replaced by Reformers. Even the influence of the boroughmongers was lost in the crisis. For the first time Newcastle found himself unable to do what he liked with his own. His candidates were defeated at Newark, at Bassetlaw, and in Nottinghamshire. Lonsdale proved almost equally powerless in Cumberland. The mighty force of popular opinion, bursting the bonds by which it had been controlled, swept political power out of the hands of the boroughmongers and transferred it to the people.

The general election which thus took place in the summer of 1831 in reality completed the triumph of the Reformers. The legislature had still to register the verdict of the country, but it had not the slightest chance of reversing it. . . .

The new Parliament was formally opened on the 21st of June. Three days afterwards, on the 24th of June, Russell introduced the second Reform Bill. But his position had been materially altered since he had been intrusted with the original bill, nearly four months before. His services had been properly rewarded by his admission to the Cabinet. His courage had been proportionately raised by the enthusiasm and strength of his supporters.

He no longer spoke with the hesitation and diffidence which had marked his introduction of the original Reform Bill. But he had no concessions to offer. The country had demanded the bill, the whole bill, and nothing but the bill; and the ministry had decided on the re-introduction of the bill without material amendment. Fifty-four boroughs had been doomed to disfranchisement, forty-four boroughs to semi-disfranchisement, in the latest edition of the original bill. The new bill propósed the disfranchisement of fifty-seven boroughs and the semi-disfranchisement of forty others. Both bills, therefore, contemplated the same measure of disfranchisement. Both bills proposed the enfranchisement of the same great towns. The ministry had, therefore, adhered to all the salient features of their original plan. The Opposition was no longer able, however, to pursue its previous tactics. In March the motion for the introduction of the bill had been carried after seven nights' debate; the second reading had been carried after two nights' debate by a majority of only one. In June leave for the introduction of the bill was granted after one night's discussion, and the second reading was carried on the morning of the 8th of July by a majority of one hundred and thirty-six.

The majority was so large, the enthusiasm of the House of Commons was so great, that the ministry might fairly hope for the rapid passage of the measure through its future stages. The Opposition, however, exhausted the forms of Parliament to delay a proposal which it was no longer doubtful that it was unable to defeat. On the 12th of July, Russell moved that the House should go into committee upon the bill. The committee lasted for forty nights and did not conclude its labors till the 7th of September. No material alterations in the measure were effected by the committee. The old borough of Saltash was transferred from Schedule A to Schedule B. Ashton and Stroud were each given a member; two Welsh counties, Carmarthen and Denbigh, an additional member each; and the right of voting was extended, on the motion of Lord Chandos, to £50 occupiers in counties. These slight alterations hardly rewarded the Opposition for its persistent labors. Night after night had been wasted with an objectless discussion, which only irritated the country and wearied the government. On the first of the forty nights, motions for adjournment were again and again repeated, and the Opposition did not finally give way till eight o'clock on the following morning. Happily for the comfort of the legislature, the example which was thus set by an irritated minority was not followed for another forty-six years.

Delay was hardly tolerated within the walls of Parliament. Outside the walls of Parliament the people watched with ill-disguised impatience the tactics of the Opposition. They could not understand why the discussion of a measure which was acceptable to a large majority of the House of Commons, and to nine men out of every ten in the country, should be protracted over forty nights. At the commencement of August the Birmingham Political Union marked its sense of the delays by petitioning the House to accelerate the passage of the bill. The House declined to accept the petition which complained of "a factious and puerile opposition" by "a small and interested minority." But the petition, though it was rejected, did its work. The committee steadily applied itself to the details of the measure. A proposal, made by Hunt, for the enfranchisement of all ratepayers, was defeated by a majority of 123 votes to 1; a suggestion by Hume for the representation of the colonies was rejected without a division. On the 7th of September the bill was reported; on the 13th the report was considered; on the 19th the bill was read a third time without discussion; and finally, on the 21st of September, it was passed, after three nights' debate, by 345 votes to 236. . . .

### § 5. *The Bill in the House of Lords*

The satisfaction which the coronation gave probably facilitated the progress of the Reform Bill through its later stages in the House of Commons. But the recollection of the gay scene was effaced before the bill reached the House of Lords on the 22nd of September. The formal proceedings which are customary when a bill is carried from one house to the other were, on this occasion, watched with breathless anxiety; and the Commons, instead of retiring from the bar, waited till the second reading of the bill had been fixed for Monday, the 3rd of October. The debate which commenced on that day was one of the most memorable which had ever occurred in the House of Lords. It was opened by a minister who was able to avow that he stood before their lordships "the advocate of principles from which" he had "never swerved," and that he was only proposing in his old age the measure which he had promoted in his youth. Grey's commanding eloquence had never been exerted with more effect than in this debate. Chancellor and ex-chancellor vied with each other, towards the close of it, in speeches of unusual power. Brougham actually supplicated his brother peers on his knees to pass the bill. Consummate actor

that he was, he made the common mistake of overacting his part, and became ridiculous when he intended to be sublime. Lyndhurst, in a speech of marked ability, replied to Brougham's declamation; and after a few desultory speeches from dukes and prelates, and an eloquent reply from Grey, the peers rejected the second reading of the measure by 199 votes to 158.

The memorable division took place about six o'clock in the morning on Saturday, the 8th of October. The newspapers, a few hours afterwards, announced it to the discontented capital. The *Chronicle* and the *Sun* appeared in mourning. The *Times*, in its short leading article, declared that it turned from "the appalling sight of a wounded nation to the means already in action for recovery." The means were sufficiently formidable. The Common Council of the city at once met in support of the measure. Those members of the House of Commons who had supported the bill passed a vote of confidence in the government. London, however, appeared apathetic when its action was contrasted with that of the country. The news of the division reached Birmingham at five o'clock in the afternoon. The bells were immediately muffled and tolled. The mob at Derby, irritated at the announcement, broke out into open riot. The jail at Nottingham was burnt down. Two troops of Kentish yeomanry tendered their resignation because their commanding officers, Lord Sydney and Lord Winchilsea, had voted against the bill; and meetings were held in almost every county to support the government.

### § 6. *Macaulay's Speech on Reform*

There was, however, one satisfaction for the Reformers. The *Chronicle* had assured them, in its black-edged columns, that "the triumph of the wicked does not endure forever," and the triumph of the Opposition promised to be equally short-lived. The House of Commons had hardly reassembled on the Monday before Ebrington proposed a resolution lamenting the fate of the Reform Bill, and expressing unabated confidence in the ministry. The motion was resisted by Goulburn, on the part of the Opposition. But neither Ebrington nor Goulburn succeeded in instilling any enthusiasm into the House. Among the more recent additions to the House of Commons, however, there was a young orator whose eloquence was equal to his ardor, and whose ardor was stimulated by his knowledge. Thomas Babington Macaulay was born in 1800. He entered Parliament for Lord Lansdowne's

borough of Calne in February, 1830. He only spoke twice during the memorable session which was abruptly concluded by the death of George IV. He had done nothing which gave him any right to expect office in Grey's ministry, and when the Whig administration was formed, his claims were overlooked. Yet the introduction of the Reform Bill raised him at once to eminence. His first speech on the second reading of the first bill reminded the older members who heard it of the days of Fox, Pitt, and of Canning. His next speech, on the second reading of the second bill, confirmed the great impression which his first speech had made. He rose after Goulburn to support Ebrington's motion. Goulburn had endeavored to limit the debate to a discussion of the measures of the government, — the timber duties, the coal duties, the sugar duties. Macaulay brushed away the cobwebs which Goulburn had woven as mere trifling and recalled the House to the one subject which was before it: "At the present moment I can see only one question in the State — the question of reform; only two parties — the friends of the bill and its enemies. . . . The public enthusiasm is undiminished. Old Sarum has grown no bigger; Manchester has grown no smaller. . . . I know only two ways in which societies can be governed, — by public opinion and by the sword. A government having at its command the armies, the fleets, and the revenues of Great Britain might possibly hold Ireland by the sword. So Oliver Cromwell held Ireland; so William the Third held it; so Mr. Pitt held it; so the Duke of Wellington might perhaps have held it. But to govern Great Britain by the sword — so wild a thought has never, I will venture to say, occurred to any public man of any party. But if not by the sword, how is the country to be governed? . . . In old times, when the villeins were driven to revolt by oppression, when a hundred thousand insurgents appeared in arms on Blackheath, the king rode up to them and exclaimed, 'I will be your leader!' and at once the infuriated multitude laid down their arms and dispersed at his command. Herein let us imitate him. Let us say to our countrymen: 'We are your leaders. Our lawful power shall be firmly exerted to the utmost in your cause; and our lawful power is such that it must finally prevail.'"

Macaulay's speech had the merit of concentrating the attention of his audience on the main issue. The House, aroused by it into enthusiasm, passed Ebrington's resolution by a large majority; and the ministry, thus supported in its determination to persevere in the measure, obtained the king's assent to a short prorogation

of Parliament, and to the re-introduction of the Reform Bill, with such amendments as might be necessary, after the conclusion of the recess. The country was partly pacified by the assurance that the ministry intended to persevere. But the Political Unions displayed an increasing determination to intimidate the peers. A vast meeting, which was said to have consisted of one hundred and fifty thousand persons, was held at Birmingham; resolutions were passed at it that no taxes should be paid if the Reform Bill were rejected; and thanks were unanimously voted at it to Althorp and Russell. In the midst of this excitement, and the angry feelings which it generated, Parliament was prorogued. . . .

### § 7. *Introduction of the Third Reform Bill*

During the whole of the short Parliamentary recess men brooded over the prospects of the coming session. Parliament, which had been prorogued on the 20th of October, met again on the 6th of December. Six days afterwards, or on Monday the 12th, Russell introduced the third Reform Bill. The third Reform Bill was constructed on different principles from either of its predecessors. It was determined to disfranchise wholly fifty-six boroughs, returning one hundred and eleven members; it was decided to deprive thirty other boroughs of half of their representatives. The boroughs which were marked for disfranchisement were selected on a new principle. Regard was paid to the population of the smaller towns, the number of houses in them, and the amount which they respectively paid in assessed taxes. From these various sources the list of the condemned boroughs was prepared. The change of method, however, made no material difference in Schedule A. One or two boroughs escaped disfranchisement; one or two others were added to the list; but Schedule A for all practical purposes was unaffected. A material difference, however, was made in Schedule B. In the first bill forty-six boroughs had been included in this schedule. In the second bill forty boroughs, which were subsequently increased to forty-one, were named in it. But in the third bill only thirty boroughs were selected for partial disfranchisement. The milder measure of disfranchisement was possible, because, in another respect, the ministry had modified its original scheme. In the former bills it had contemplated a considerable reduction in the number of the House of Commons. In the bill of December it preserved the number of six hundred and fifty-eight members which had composed it since the Irish Union.

This decision enabled the Cabinet not merely to save a few boroughs from disfranchisement, but also to enfranchise a greater number of thriving towns. The former process pacified the feelings of the Opposition; the latter undoubtedly increased the efficiency of the measure.

The bill which was thus introduced was at once read a first time. It passed its second reading after two nights' debate on the Friday following by a majority of exactly two to one. The House, having made this satisfactory progress with the measure, adjourned for the Christmas holidays till the 17th of January. After the recess twenty-two nights' work enabled the government to carry the bill through committee. On the 22nd of March it was read a third time; and finally, on the 23rd of March, it passed the House of Commons without a division.

### § 8. *Pressure on the House of Lords*

One branch of the legislature had given a convincing proof of its desire for reform; but no one had ever questioned the fidelity of the House of Commons to the cause of the people. The second Reform Bill had been lost through the action of the peers, and there was no reason to suppose that the peers had modified their views on the subject. There was, however, one way by which the House of Lords could be controlled. The king had the undoubted right to create any number of peers; and a majority could, of course, be converted into a minority by the process. In the beginning of September, 1831, Brougham had desired to adopt this remedy. His advice had been supported by Durham and Graham, who had persistently urged it on their colleagues. The king, however, had the strongest possible objection to the suggestion. Grey was himself opposed to it; and Althorp shared Grey's objections to any large creation of peers. The reluctance of Grey and Althorp to swamp the peerage by a considerable addition to its numbers induced the moderate members of the Cabinet to try to effect a compromise with a portion of the Opposition. There were two sections of the Opposition who, for different reasons, seemed capable of conversion. In the first place, the bishops had, almost without exception, voted against the former bill, and the king thought that his influence might induce them to modify their views. In the next place, a few Tory peers, of whom Lord Harrowby and Lord Wharncliffe were the most prominent, were profoundly impressed with the dangers inseparable from the unconditional re-

jection of the bill, and sincerely anxious to conclude a compromise upon it. The negotiations which were attempted with these objects were not, however, successful. The king failed to extract a promise of support from the bishops, and the demands of the Waverers, as the moderate peers were termed, proved inadmissible. These failures naturally strengthened the hands of the small party in the Cabinet who desired to secure the success of the bill by an unlimited creation of peers. . . .

Brougham declared that the failure of the ministry to make peers was interpreted by the Tories to mean that the king declined to create them; and he suggested that this belief should be removed by twelve or fifteen creations, and by the promise of the king to sanction further creations if they were necessary. The Cabinet assented. The king was induced to give a reluctant consent, on the condition that the new peerages should be conferred, with few exceptions, on the heirs of existing peers; and he was ultimately prevailed upon to withdraw his stipulation that the new creations should not exceed twenty-one in number. Rumors of this arrangement were soon heard. The Waverers, in consequence of them, showed an increasing disposition to arrange terms with the government. Harrowby and Wharncliffe again distinguished themselves by the moderation of their views, and by their desire to conclude some compromise acceptable to all parties. Greville, whose position at the Council Office had secured him the friendship of all parties, exerted himself to mediate between them. An arrangement was at last concluded by which a majority for the second reading of the bill was secured, on condition that no new peerages should be created. Harrowby and Wharncliffe were able to assure Grey that a sufficient number of votes could be obtained for the second reading of the bill on this understanding.

The bill was introduced in the House of Lords on the 26th of March. The Waverers publicly avowed their intention of supporting it. Wellington formally declared that his own opinions were unchanged, and the bill was read a first time without division. The debate on the second reading, which commenced on the 9th of April, lasted over four nights. The sun had risen on the morning of the 14th when the Lords pronounced their decision on the principle of the measure. But the division list afforded a decisive proof of the change which had been effected in the views of the peers. Seventeen peers who had voted against the bill of 1831 voted for the bill of 1832. Ten who had voted against the bill of 1831 stayed away from the division in 1832; and twelve

others who had been absent in 1831 supported the measure of 1832. These defections from the ranks of the Opposition decided the fate of the measure. The bill of 1831 had been lost by a majority of forty-one; the second reading of the bill of 1832 was carried by a majority of nine.

The news of the great division was everywhere received with satisfaction. Reform had evidently made considerable progress, and its ultimate success was becoming more assured. But the satisfaction with which the decision of the Lords was regarded was not shared by the ministry. The majority by which the second reading of the bill had been carried was only small, and no reliance could be placed on the future votes of those who had composed it. The ministry, in short, could have no chance in carrying the measure in its further stages without creating new peers, and the peerage question presented unexpected difficulties. The king's feelings respecting the Reform Bill had gradually undergone a remarkable change. In the beginning of 1831 he had given a zealous support to his ministers; and his support was the support of a man who thoroughly understood the bill, and whose voice had been heard in the arrangement of its details. In March, 1831, he had been reluctantly induced to face the possible risks of a dissolution and to appeal to the country. But the necessity for a dissolution moderated the king's ardor. His zeal cooled in exact proportion to the growing warmth of the country. . . . The Tory papers were induced to declare that the king was pledged to nothing beyond the second reading of the bill, and that he was entirely indifferent as to any alteration which might be made in it in committee.

### § 9. *Final Attempt to Block Reform*

These reports, industriously circulated in every quarter, naturally increased the embarrassment of the ministry. Parliament, which had separated for the Easter recess, did not re-assemble till the 7th of May. On that evening Lyndhurst moved the postponement of the clause, disfranchising the boroughs enumerated in Schedule A. The motion was carried against the government by 151 votes to 116, and Grey at once deferred the further consideration of the measure. The Cabinet met on the morning of the 8th, and decided on "the expediency of advancing to the honor of the peerage such a number of persons as might insure the success of the bill in all its essential principles." The king was verbally assured by Grey and Brougham, who were charged with the duty

of laying the decision of the Cabinet before him, that at least fifty fresh peerages would be required. The king, after a day's consideration, declined to act on the advice of his ministers, and accepted their resignations. On the same day he sent for Lyndhurst, with a view to the formation of a new administration.

Lyndhurst was sitting in the Court of Exchequer when the king's commands for his attendance were brought to him. He found the king desirous of carrying a measure of reform, but terrified at the extreme counsels of his Whig ministry. Lyndhurst recommended him to form an administration prepared to carry a moderate Reform Bill, and undertook himself to conduct a negotiation with this object. Charged with the king's commands, Lyndhurst at once applied to Wellington. Wellington was more opposed to reform than any other statesman. But Wellington's political conduct was uniformly governed by two considerations. He always considered what was practicable; he always tried to ascertain what was due to his sovereign. It was no longer practicable, in 1832, to defend the uncompromising position which he had taken in 1830. Reform was necessary; and a mild dose, prescribed by the Tories, seemed preferable to the strong purge recommended by their opponents. Successful with Wellington, Lyndhurst turned to Peel. But Peel scornfully rejected the notion that he should personally carry the measure which he had spent day and night for a year and a half in opposing. Peel's refusal, either to take the highest office or any office, was the first rebuff which Lyndhurst received. Peel's example was at once imitated by Goulburn and Croker; and these successive refusals made the formation of a Tory government hopeless. Alexander Baring, indeed, the member for Callington, a gentleman of some experience in commercial pursuits, undertook to perform the duties of Chancellor of the Exchequer. Manners Sutton, the speaker, promised to lead the House of Commons and to be Secretary of State. Experienced politicians, blinded by their own prejudices, imagined that a government in a minority in the House of Commons — with no first-rate, and even no second-rate, men to defend it in that House — had a chance of moderating the passionate hurricane which was raging in the land.

The men, however, who reposed in a fancied security amidst the strife around them were soon subjected to a rude awakening. On the 9th of May, Grey and Althorp announced the resignation of the Whig ministry. During a similar crisis in the previous autumn Ebrington had come forward and proposed a vote of confidence in

the administration. On the 10th of May, Ebrington again proposed an address to the crown of confidence in the government. The House, on the same evening, adopted the address by a majority of eighty. This decision naturally increased the difficulties of the Tory gentlemen who were endeavoring to form a new administration. They could no longer affect to be ignorant of the opposition of the House of Commons. But the decision of the House of Commons formed only one element of danger. On the same evening a petition was presented from the city of London praying the House to stop the supplies. On the 11th a similar petition was presented from Manchester. It was notorious that petitions with the same object were being prepared in every large town. Lord Milton openly admitted that he had desired the tax-gatherer to call again, as he might find it necessary to refuse payment. Men, in their passionate excitement, hastily concluded that a commercial crisis would be preferable to the fall of the Grey ministry. A run upon the Bank of England, it was thought, might increase the difficulties of the situation and embarrass the Tory government. "Go for gold, and stop the duke," was the advice which was placarded on every bare wall in the metropolis.

Every moment was increasing the difficulties of the duke. On Monday, the 14th of May, his difficulties became insuperable. A petition was presented to the House of Commons praying that the supplies might be refused till the Reform Bill had become a law. A violent debate ensued. The duke's inconsistency in accepting office was criticised by Duncombe on one side of the House, and by Inglis on the other. Every thrust was received with cheers and counter-cheers; and the overcrowded House, in a state of uncontrolled excitement, presented a scene of unparalleled violence. Baring spoke again and again, but proved unequal to the task of moderating the assembly. Appalled at the tempest which they had provoked, Sutton and Baring repaired to Wellington to tell him that their situation was impracticable. On the following morning the duke waited on the king and advised the recall of Grey.

### § 10. *Passage of the Bill*

The king had no alternative but to adopt the advice which the duke thus gave him. But he still shrank from the expedient, which the Whig ministry had pressed on him, of an unlimited creation of peers. He suggested to Grey that his old ministers might return to office; that some modifications might be made in

the bill; and that the measure might then be passed with the assistance of the Tory party. Grey replied that the events which had taken place had made modifications much more difficult, and that ministers could not resume office "except with a sufficient security that they will possess the power of passing the present bill unimpaired in its principle and its essential provisions, and as nearly as possible in its present form." This security, the ministry decided, could only be obtained in two ways. The adversaries of the bill might cease from opposing it, or their opposition might be overcome. The former alternative appeared impracticable; the latter pointed to a large creation of peers. The king, still clinging to the hope that an addition to the peerage might be avoided, instructed his secretary, Sir Herbert Taylor, to inform Wellington that all difficulties would be removed by "a declaration in the House of Lords from a sufficient number of peers that they have come to the resolution of dropping their further opposition to the Reform Bill." Wellington, as usual, obeyed the king's commands. He withdrew from the House, and he was accompanied, in withdrawing from it, by Lyndhurst and other peers. But the seceders prefaced their withdrawal by speeches of extreme violence, and tacitly reserved to themselves the liberty of returning and of resuming their opposition to the bill. This conduct increased the embarrassment of the ministry. The Cabinet, meeting the next day, decided that its continuance in office must depend on their receiving "full and indisputable security" "for insuring the speedy settlement of the Reform Bill." The king, finding that he had no alternative but submission, gave the requisite authority. The Cabinet was empowered, if it should be necessary to do so, to create an unlimited number of peers, provided that the eldest sons of peers or the collateral heirs of childless noblemen were first summoned to the House of Lords.

The king's letter had, however, done its work. Wellington and other peers, obeying his Majesty's hint, abstained from taking any further part in the discussions on the Reform Bill. The Opposition was, of course, paralyzed by the abstention of its leaders. The measure, freed from any serious attack upon it, made rapid progress. It passed through committee at the end of May; it was read a third time on the 4th of June. The House of Commons immediately afterwards assented to the slight amendments which had been introduced in the Lords; and on the 7th of June the royal assent to the measure was given by commission.

## CHAPTER III

### THE TRIUMPH OF URBAN DEMOCRACY

THE Reform Bill of 1832 did little to meet the demands of the working classes for the right to vote, and more than thirty years were to elapse before their claim to the franchise was conceded by Parliament. Their violent agitations during the Chartist movement were without avail, but some years later the rivalry of the great political parties seeking popular support led to the first measure which granted political power to an appreciable portion of the propertyless classes. When Earl Russell became prime minister in 1865, the signal for a new conflict over democracy was given.

### § 1. *The Political Situation and the New Reform Bill*[1]

That the government of Lord Russell would introduce a Reform Bill was considered on all hands as a matter of course. The only questions in dispute were when the bill would be brought in, and whether it would be a big bill or a small one. Even if Lord Russell and Mr. Gladstone had not both been ardent Reformers, they could hardly dispense with the support of the Radicals, and that support, as Mr. Bright told them in a speech at Rochdale, where he lived, would depend upon their earnestness in the enfranchisement of the people. All through the north of England public feeling was vehemently excited, and numerous meetings were held with great enthusiasm. In the south, on the other hand, comparative apathy prevailed, and there were men in the Cabinet, such as Lord Clarendon and the Duke of Somerset, who liked reform as little as their departed chief. The regular Opposition represented by Lord Derby and Mr. Disraeli, were committed to the principle

[1] Paul, *A History of Modern England*, Vol. III, pp. 22 ff. By permission of The Macmillan Company, Publishers.

of reform, having in 1859 introduced a Reform Bill themselves. But they were, of course, entitled to treat any particular scheme upon its merits, and to accept it or reject it accordingly.

The mention of the subject in the Queen's Speech was unusual and ambiguous. . . . But ministers were better than their words, and on the 12th of March, the month of reform bills, Mr. Gladstone disclosed the scheme. It proved to be mild and moderate indeed, milder and more moderate than even the bill of 1860. The county franchise would be reduced from a rental of fifty pounds to a rental of fourteen, and the borough franchise from a rental of ten pounds to a rental of seven. Compound householders, for whom their landlords "compounded," paying their rates and charging the payment in the rent, were to be on the same footing with other householders, and there would be a lodger franchise for every man whose lodgings were worth ten pounds a year unfurnished. There would also be a right of voting conferred by the deposit of fifty pounds in a savings bank for two years, and, on the other hand, laborers in the dockyards of the government would be disfranchised. It was estimated that the number of electors added to the constituencies by the bill would be four hundred thousand. That this measure should have been, as it was, accepted with gratitude by the Radicals, is strange.

### § 2. *Opposition to Mr. Gladstone's Measure*

That it should have roused vehement and bitter animosity would be still stranger, if the approval of Mr. Bright and Mr. Mill did not to some extent account for the opposition of Mr. Horsman and Mr. Lowe. That opposition was declared at once. There was no division upon the first reading of the bill. But it was debated for three nights, and on the second evening Mr. Lowe made a powerful attack upon it, which was received with enthusiastic applause by the Conservative party. Mr. Gladstone had not thought it necessary to argue in favor of reform, inasmuch as five administrations in six Queen's Speeches had pledged themselves to a reduction of the franchise. Mr. Lowe fastened upon this omission, and boldly declared that the House of Commons was as good as it could be. Not since the Duke of Wellington's celebrated protest in 1830 against touching the ideal symmetry of the British Constitution had there been heard in Parliament a more emphatic outburst of undiluted Toryism. Forgetting altogether that he had supported as a member of the government,

though not of the Cabinet, the Reform Bill of 1860, he declared that he did not envy Mr. Gladstone the glory of carrying such legislation. He coveted rather the fame of resisting it to the utmost of his power. In words of which he was not soon to hear the last, he said, "You have had the opportunity of knowing some of the constituencies of this country, and I ask, if you want venality, ignorance, drunkenness, and the means of intimidation, if you want impulsive, unreflecting, and violent people, where will you go to look for them, to the top or the bottom?" Mr. Lowe always denied that he used this language of the working classes as a whole. The context, he said, showed that he spoke of those already enfranchised. This was true, but it was a quibble. For in the first place, Mr. Lowe maintained, contrary to the evidence, that the best of the working classes were enfranchised already, and, in the second place, his illustration had no meaning unless it expressed the danger of a suffrage which admitted them in larger numbers. Mr. Lowe had not been fortunate in his experience of the populace at Kidderminster, where his life was imperilled by the violence of the mob. He now represented nominally the people of Calne, and really the Marquess of Lansdowne. . . .

### § 3. *The Adullamites and Conservatives*

Next to the Chancellor of the Exchequer and the member for Calne the most prominent speaker was Mr. Bright. In his happiest vein, and with his raciest humor, he compared the party of Mr. Lowe and Mr. Horsman with the Scotch terrier, so covered by hair that you could not tell which was the head and which was the tail. In the same speech, his speech on the first reading, he made use of a political metaphor which has not been staled by age or withered by custom. He compared Mr. Horsman, a showy, shallow person, very prominent at the time, with the Hebrew chief who gathered round him in the cave of Adullam every one that was in distress, and every one that was discontented. The Whig malcontents were at once christened Adullamites, and a group of rebellious politicians have ever since been known as a cave.

The Conservative party had immediately to decide whether they would join forces with Mr. Lowe and the rest of the Adullamites. They were not long in making up their minds. On the 16th of March they held a meeting at Lord Salisbury's house, with Lord Derby in the chair, and determined to oppose the bill. Four days afterwards, before the House of Commons adjourned for the

Easter recess, Lord Grosvenor gave notice of an amendment to the second reading, which objected to further progress with an incomplete scheme, and, to show the unity of the opposition on both sides of the House, it was announced that the amendment would be seconded by Lord Stanley. In other words, the Conservatives and Adullamites, instead of meeting the proposals of the government with a direct negative, fixed upon the plausible point that reduction of the franchise should be accompanied by redistribution of seats. . . .

### § 4. *The Debate between Mr. Gladstone and Mr. Lowe*

Thus, when, on the 12th of April, the debate upon the second reading of the bill began, the omens were not favorable to the government, and Mr. Gladstone found it desirable to meet the Opposition halfway. He undertook that before going into committee the House should be made acquainted with the whole scheme of reform, including the Redistribution Bill and the bills for Scotland and Ireland. But to Lord Grosvenor's amendment, which called for this disclosure before the second reading, ministers still objected, and upon that narrow issue the trial of strength was nominally held. The real subject of discussion was, however, the bill itself, and the real speakers were two. There was nothing to prevent the opponents of the measure from continuing the debate as long as they pleased, and they were pleased to continue it for eight nights. Lord Grosvenor was merely an ornamental figurehead. His seconder, Lord Stanley, intellectually the ablest member of the Conservative party, stuck to his text, and dwelt upon the risk that accident might assign the privilege of dealing with redistribution to a new and more democratic Parliament. The eloquence of Sir Edward Bulwer-Lytton was always ready to flow with equal vehemence and volume on either side of reform. Sir Hugh Cairns, almost alone among his contemporaries, spoke with the same effect as a statesman and as a lawyer. Mr. Disraeli, wary and adroit, used the Adullamites without allowing them to use him, and attacked the bill while he kept his own opinions to himself.

But the waves of time have long since obliterated all traces of this verbal conflict, except the memorable duel between Mr. Gladstone and Mr. Lowe. Without Lowe the cave would have been contemptible, and the Conservatives would have allowed the second reading to pass unchallenged. He was the brains and heart of the

Opposition. Gladstone had the advantage of being able to make two speeches, whereas Lowe could make only one. But in his first speech the minister was scrupulously mild, and did not go beyond entreating the House of Commons to be "wise in time." The combination of Lowe and Disraeli was required to draw from him the most magnificent specimen of Parliamentary eloquence which the oldest member of Parliament could recollect. In Lowe's eyes the bill was the first step on the downward path to that democracy which, more than anything else, he dreaded and loathed. He held up as a warning the dangerous power of Trade Unions, and showed, in language which must have given some ground for reflection to Mill, how unsound was the democratic finance of the self-governing colonies. "Look at free trade," he cried. "If we have a precious jewel in the world, it is our free-trade policy. It has been everything to us. With what eyes do democracies look at it? . . . Canada has raised her duties enormously, and justified them upon protectionist principles. The Prime Minister of New South Wales at this moment is a strong protectionist. The ministry in Victoria were free traders, but by the will of the people they have become converted, and have become protectionists." After making the singularly unfortunate prediction that responsible government in France could not coexist with universal suffrage, he concluded, amid the enthusiastic applause of the party opposite to which he sat, "Surely the heroic work of so many centuries, the matchless achievements of so many wise heads and strong hands, deserve a nobler consummation than to be sacrificed at the shrine of revolutionary passion or maudlin enthusiasm of humanity. Uncoerced by any external force, not borne down by any internal calamity, but in the full plethora of our wealth and the surfeit of our too exuberant prosperity, with our own rash and inconsiderate hands we are about to pluck down on our own heads the venerable temple of our liberty and our glory. History may tell of other acts as signally disastrous, but of none more wanton, none more disgraceful."

This powerful, if somewhat extravagant, harangue was delivered on the 26th of April. When at one o'clock in the morning of the 28th the Chancellor of the Exchequer rose to reply, a crowded House, eager for the division and not unmindful of repose, was spellbound for two hours by the magic of his words as he reviewed with consummate dexterity the whole course of the debate. Although he followed Disraeli, his real antagonist was Lowe. "At last, sir," he began, in an abrupt and vigorous exordium, "we

have obtained a clear declaration from an authoritative source, and we now know that a bill which in a country with some five millions of adult males proposes to add to the present limited constituency two hundred thousand of the middle class, and two hundred thousand of the working class, is, in the judgment of the leader of the Tory party, a bill to reconstruct the Constitution on American principles." Mr. Disraeli, with unusual want of tact and sense, had taunted him with having opposed the Reform Bill of 1831 in the Oxford Union. This rather absurd gibe gave the orator an opportunity of explaining his political growth. "I was bred," he told the House, "under the shadow of the great name of Canning; every influence connected with that name governed the first political impressions of my childhood and my youth; following Mr. Canning, I rejoiced in the removal of religious disabilities from the Roman Catholic body, and in the free and truly British tone which he gave to our policy abroad; following Mr. Canning, I rejoiced in the opening he boldly and wisely gave towards the establishment of free commercial exchanges between nations; with Mr. Canning, and under the attraction of that great name, and under the influence likewise of the yet more venerable name of Burke, I own that my youthful mind and imagination were impressed with those same idle and futile fears which still bewilder and distract the mature mind of the right honorable gentleman."

But he speedily left the leader of the Opposition and came to his leading opponent. With Lowe's academic denunciations of the working classes he contrasted their heroic endurance of the cotton famine in Lancashire. Coming to close quarters with Lowe's so-called dilemma, Gladstone denied that it was a dilemma at all. He answered the question whether he thought the franchise was a good thing in itself, or whether he wished to improve the institutions of the country, with a double affirmative. It was a good thing, and, because it was a good thing, it would make other things better. The working classes were worthy of enfranchisement, and therefore the Cabinet proposed to enfranchise them. Why should that reasonable proposal be resisted by a great party? What had the Conservatives gained by opposing Catholic Emancipation, the first Reform Bill, the repeal of the Corn Laws? All these measures had been carried in spite of them, and since 1832 the Whigs or Liberals had been in power for at least five years out of six. Then, raising his tone, Mr. Gladstone was bold enough to prophesy that, as the cause was above the men, those who fought against it were fighting against the future. "Time is on our side.

The great social forces which move onwards in their might and majesty, and which the tumult of these debates does not for a moment impede or disturb, those great social forces are against you; they work with us, they are marshalled in our support. And the banner which we now carry in the fight, though perhaps at some moment of the struggle it may droop over our sinking heads, yet will float again in the eye of heaven, and will be borne by the firm hands of the united people of the three kingdoms, perhaps not to an easy, but to a certain and to a not distant, victory."

To the sound of this magnificent peroration the House divided. Never had it been more excited. Never had it been so crowded. Six hundred and thirty-one members being present, the government were saved from defeat by five votes alone. No wonder the Conservatives cheered themselves hoarse. No wonder Mr. Lowe and other denizens of the cave stood up and waved their hats in triumph over the heads of the colleagues they had deserted. For although, after the rejection of the amendment, the bill was allowed to be read a second time in silence, it had received a mortal blow, and the official lives of the ministers who introduced it were not worth a quarter's salary.

### § 5. *Renewal of the Conflict under Lord Derby and Mr. Disraeli*

[The practical defeat of the Russell ministry led to its resignation, and though in a minority the Conservatives were called to power under the leadership of Lord Derby. Mr. Disraeli, as Chancellor of the Exchequer, and leader in the House of Commons, was not long in discovering that reform was inevitable. He was doubly convinced of this by some mild rioting which occurred in Hyde Park and by the extensive agitations of the Radicals throughout the country.]

The Conservative leader, or rather the leader of the Conservatives, in the House of Commons, was a man of dauntless courage and unlimited resource. In language slightly reminiscent of Mrs. Micawber, he declared that he would not desert Lord Derby, and that he would introduce the original bill on the 18th of March. Three days before that date Lord Derby held a meeting of his party, and announced that the bill would provide for household suffrage in boroughs, subject to the essential conditions of two years' residence and the personal payment of rates. There would





also be educational, professional, and property franchises with the dual vote. The county franchise would be reduced from a rental qualification of fifty pounds to a rating qualification of fifteen. If this bill were rejected, the government would dissolve. These last words were the most effective in Lord Derby's speech, and it is not difficult to guess who prompted them. A penal dissolution has always been regarded as a legitimate weapon for a minister in an emergency to use. But it means, of course, that every member who votes against the government will subject himself, if he succeeds, to a fine of some hundred pounds. The immediate effect of the speech was almost everything that the Prime Minister could desire.

Mr. Henley who had resigned rather than assent to the Reform Bill of 1859, and was not a member of the present government, signified his hearty approval of household suffrage with payment of rates, and the only voice of disapproval at the meeting came from Sir William Heathcote, a model squire and churchman, but not an influential politician. When the bill was introduced it was found to correspond closely enough with Lorb Derby's sketch. The fancy franchises, however, lent themselves to ridicule. The payment of one pound a year in direct taxes (not being licenses, so as to exclude Mr. Bright's "rat-catcher with two dogs") was to give a vote, and to a householder, two. Fifty pounds in the funds or in a savings bank, and membership of the learned professions, would also confer the right of voting. It is strange and almost incredible, but there seems, no doubt, that Mr. Gladstone contemplated a course so unwise as opposition to the whole bill. But a meeting of the party at his own house convinced him that this could not be done, and he contented himself with an exhaustive criticism of its principal provisions. . . . He gave notice of a whole series of amendments, and on the 11th of April he moved the first which would have enfranchised every householder, whether himself or his landlord were personally rated to the relief of the poor. In other words, the compound householder was to have a vote. But Mr. Gladstone fatally weakened his position with his Radical followers by proposing in a subsequent amendment to exclude all householders whose premises were rated below five pounds. This point, however, was not raised.

### § 6. *The Debate on an Amendment*

The debate on the first amendment lasted for two nights and was most animated in tone. Mr. Gathorne Hardy defended the bill

with the impetuous eagerness which distinguished him, and Mr. Beresford Hope, a disaffected follower of the government, announced, with the awkward facetiousness which mistakes itself for humor, that he should vote against the "Asian mystery." Mr. Disraeli's retort was one of the happiest to be found in Hansard. "I can assure the honorable gentleman," he said, "that I listened with great pleasure to the invectives he delivered against me. I admire his style; it is a very great ornament to discussion, but it requires practice. I listen with the greatest satisfaction to all his exhibitions in this House, and when he talks about an Asian mystery I will tell him that there are Batavian graces in all that he says which I notice with satisfaction, and which charm me." The division showed a majority of twenty-one for the government, and the House adjourned for the Easter recess.

Mr. Disraeli's triumph was signal, not the less so because of the discomfiture inflicted on his great adversary. The blow to Mr. Gladstone's authority was serious, and nobody perceived the fact more clearly than Mr. Gladstone himself. He contemplated resigning the lead of the party, and, in reply to his faithful supporter, Mr. Crawford, announced that he should move no more amendments to the bill. It seems to have been at this time, if at all, that Mr. Disraeli said he would "hold Gladstone down for twenty years." Twenty minutes would have been nearer the mark; for now the tide began to turn. During the Easter holidays the country had the opportunity of hearing what the idol of advanced Reformers thought of Mr. Gladstone. "Who is there in the House of Commons," asked Mr. Bright at Birmingham, "who equals him in knowledge of all political questions? Who equals him in earnestness? Who equals him in eloquence? Who equals him in courage, and fidelity to his convictions? If these gentlemen who say they will not follow him have any one who is equal, let them show him. If they can point out any statesman who can add dignity and grandeur to the stature of Mr. Gladstone, let them produce him." At this meeting, and at many others held in the Easter recess, the removal of all restrictions upon household suffrage, and a franchise for lodgers, were demanded.

The Reformers had not long to wait. Consideration of the bill in committee was resumed on the 2nd of May, and Mr. Ayrton's amendment reducing the period of qualification from two years to one was carried against the government by eighty-one votes. The government yielded without discredit to the decision of the committee. But another instance of submission was not equally

fortunate. The Reform League having summoned a meeting in Hyde Park for the 6th of May, Mr. Walpole issued a notice signed with his own name to warn all persons against attending it. The League replied by urging all persons to attend it, and Lord Derby announced that as it was perfectly legal nothing would be done to prevent it. It was accordingly held in great numbers and perfect order. Although there were at least two hundred thousand people in the park, not a plant was disturbed, nor the leaf of a flower touched. Colonel Dickson rather happily addressed the crowd as "My friends and fellow-trespassers." But satisfactory as the result was from Colonel Dickson's point of view, the position of Mr. Walpole, a man too good for this world, had become intolerable. He resigned the Home Office, and was succeeded by Mr. Gathorne Hardy. Events outside strengthened the Liberal party in the House of Commons, and Mr. Gladstone, receiving a deputation to express confidence in him as a leader, denounced the "absurd, preposterous, and mischievous distinctions of personal rating." Mr. Disraeli was, or professed to be, much shocked by this language. But he soon had more important matters to occupy his mind. Liberals were coming together again, and were showing a disposition to follow the advice of a sturdy democrat, who remarked that as Disraeli was bent on manipulating democracy, they should take his democracy, and treat his manipulation as the wicked would be treated at the Day of Judgment.

### § 7. *A Radical Amendment*

Mr. McCullagh Torrens, the biographer of Sir James Graham and Lord Melbourne, proposed the enfranchisement of lodgers and to this the government agreed, only stipulating that the lodgings must be worth, unfurnished, ten pounds a year, or about four shillings a week. A still more important change followed. Mr. Hodgkinson, Liberal member for Newark, a local solicitor little known in the House, moved "that no person other than the occupier shall be assessed to parochial rates within the limits of a Parliamentary borough."... So little did Mr. Hodgkinson dream of success that he estimated the probable majority against him at about a hundred. To the surprise of every one, and the consternation of his own followers, Mr. Disraeli at once accepted the amendment, which was added, without a division to the bill. Mr. Gladstone has left it on record that no episode in the romantic career of the "mystery man" astonished him more than this,

adding that Mr. Disraeli made up his mind before he had consulted the Cabinet, who were afterwards summoned to hear from an eminent statistician, Mr. Lambert, the numerical effect of the change. Thus, of Lord Derby's two main safeguards, a two years' residence and personal rating, one had already gone, and the other had become a farce; for although every borough voter would be personally rated, so would every resident in a borough, which was household suffrage, pure and simple, without restriction or modification. The compound householder ceased, from a Parliamentary point of view, to exist, and a silence, only to be broken by the historian, fell upon the burning question of lobby gossip and dinner-table talk. Well might Bernal Osborne declare that the Chancellor of the Exchequer was the greatest Radical in the House. The fury of Mr. Lowe almost exceeded his very considerable powers of speech. He implored the gentlemen of England, "with their ancestry behind them, and their posterity before them," — a natural position which they shared even with compound householders, — to "save the Constitution from the hands of a multitude struggling with want and discontent."

What was to become of the House of Lords? The country and the Conservative party were alike ruined. Sir Rainald Knightley, who had helped to destroy the far milder Reform Bill of the previous year, complained bitterly of desertion. But Mr. Disraeli remained passive and imperturbable, satisfied that, in Lord Derby's phrase, he had "dished the Whigs" with a vengeance. Then the pace became fast and furious. Mr. Mill's proposal for woman's franchise was dismissed with the dreary jocularity considered suitable to such occasions. Mill's speech in moving his amendment is the ablest and clearest statement of the case for the political enfranchisement of women. Much of it was too high-flown and romantic for the House of Commons. But the purely Parliamentary arguments are very strong. All other barriers to the suffrage, said Mill, could be surmounted by obtaining the requisite qualification. This alone could not. An unrepresented woman might pay twice as much in taxation as a represented man. If politics were "not a woman's business," neither were they a man's, unless he happened to be a member of Parliament. If "indirect influence" were equivalent to representation, rich men ought to be disfranchised on account of their wealth. Power without responsibility was the most mischievous kind of power. The closing of professions to women, and the absolute right of husbands to take their wives' property unless it was protected by settlement,

were grievances which would not be redressed until women had votes.

Prophecy is always dangerous, and this one has not been more fortunate than others. But that such arguments should not have been deemed worthy of a serious reply is discreditable to the House of Commons, and especially to its leaders. Neither of them took part in the debate. Gladstone voted against the amendment. Disraeli did not vote at all. The copyhold franchise fixed by the government at ten pounds was next reduced to five, and the occupation franchise in counties was brought down from fifteen pounds to twelve. The educational franchise was abandoned, despite the protest of Mr. Fawcett, who clung to the belief that education would make every one a Liberal. The property franchise followed, and the dual vote, which Mr. Gladstone had always opposed, died without an epitaph or a tear. The same fate befell Mr. Mill's scheme, or rather Mr. Hare's, of enabling electors to vote for "members of Parliament in general" if they disliked their own candidates, which almost justified Mr. Bright's objurgatory remark about great thinkers, "The worst of them is that they so often think wrong." On this occasion also Mill addressed the committee with great ability, and Lord Cranborne administered a dignified rebuke to his fellow-members for the indifference with which they had received such a speech from such a man. Outside the sphere of religion there were not many things which Lord Cranborne respected. But intellectual eminence was one of them.

### § 8. *Redistribution of Seats*

The disfranchisement of three boroughs for bribery led to the subject of redistribution and to another defeat of the government. The bill would have left Cockermouth with a population of seven thousand, to return the same number of members as Liverpool, with a population of nearly half a million. As a small step towards electoral justice, Mr. Laing carried an amendment to deprive of one member all boroughs with a population of less than ten thousand. Mr. Laing's victory led, after the Whitsuntide recess, to a considerable change in the redistributing clauses of the bill. Even in their new form they were absurdly inadequate. But still they were an appreciable though a very short step toward a system of numerical representation. London received four new members for the two new boroughs of Hackney and Chelsea. After several debates at a later stage, in the course of which Gen-

eral Peel observed that nothing had so little vitality as a vital point, that nothing was so insecure as a security, and that nothing was so elastic as the conscience of a Cabinet minister, a third member was given to Birmingham, Manchester, Liverpool, and Leeds. Salford and Merthyr received a second. The new boroughs created, nine in number, were Hartlepool, Darlington, Middlesbrough, Burnley, Dewsbury, Stalybridge, Wednesbury, Gravesend, and Stockton. The University of London was made for the first time a constituency, with a single representative. Twenty-five seats were bestowed on the counties; South Lancashire, for which Mr. Gladstone sat, being further divided into Southeast and Southwest. The new seats were obtained, not by increasing the numbers of the House, but by the partial disfranchisement of small, doubly represented towns. The use of voting-papers, the last remaining barrier against a turbulent populace and the luxury of the elderly, the indolent, the distant, the infirm, was expunged from the bill on the 20th of June by a majority of thirty-eight, and thus the Liberal party were victorious all along the line.

Everything for which Mr. Gladstone asked had been extorted or conceded. The lodger had been enfranchised in the precise form recommended by Mr. Bright seventeen years before; the compound householder was no more; the property franchise had followed the dual vote into oblivion; voting-papers had gone after them; the educational suffrage had been rejected with scorn. No wonder that on the third reading the honest opponents of reform, few as they were, spoke their minds without reserve. Lord Cranborne, who had already described the monarchical principle as dead, the aristocratic principle as doomed, and the democratic principle as triumphant, now denounced "a political betrayal which had no parallel in our annals, and which had struck at the roots of that Parliamentary confidence upon which alone the strength of our representative system was maintained." Mr. Lowe declared that England had "gained a shameful victory over herself," and referred to "the shame, the rage, the scorn, the indignation, and the despair with which the measure was viewed by every Englishman who was not a slave to the trammels of party or dazzled by the glare of a temporary and ignoble success." Mr. Lowe's practical moral that we must compel our future masters to learn their letters was very much to the point, and a good deal more valuable than his highly artificial invective.

Mr. Bright's patronizing approval must have been less to Mr. Disraeli's taste than the attacks of Lord Cranborne and Mr. Lowe.

But in truth he cared very little for either the one or the other. For him the supreme test of human affairs was success, and if he succeeded he attributed hostile criticism to the pique engendered by failure. It was not his bill, but it had passed, and he, not his adversaries, sat upon the Treasury Bench. "Sing, riding's a joy! For me, I ride." They had their rhapsodies of conscious virtue. He led the House of Commons. Nor can the severest judge of his singular and cryptic character deny that there is something more wholesome than Mr. Lowe's splenetic outburst in the spirited sentences with which Mr. Disraeli concluded his aggressive apology, "I think England is safe in the race of men who inhabit her; that she is safe in something much more precious than her accumulated capital, her accumulated experience; she is safe in her national character, in her fame, in the tradition of a thousand years, and in that glorious future which I believe awaits her."

### § 9. *The Bill in the House of Lords*

Next day the bill was brought to the bar of the House of Lords, and the second reading was fixed for the 22nd of July. Those who study the British Constitution in books of authority learn that Parliament consists, besides the sovereign, of two houses, one hereditary and the other elective. The elective House, dependent upon the constituencies, is penetrated with the spirit of party, amenable to whips and wirepullers, swayed from one side to another by the breath of the popular will. The hereditary House, on the other hand, is entirely removed from the influence of political connection, and judges public issues entirely on their merits. Having no electors to please, and being placed above vulgar inducements by the fortunate accident of birth, the peers can afford to sink every consideration except that of regard for their country's welfare, of which the responsibilities involved in their lofty eminence forbid them to lose sight. Not being told (for it has nothing to do with the theory of the Constitution) that the Lords, like the Commons, are divided into parties, with their respective leaders and whips, the student would conclude that this illustrious assembly paid no heed to the frivolous question whether a bill had been introduced by a Liberal or a Conservative ministry. What, then, according to the doctors of the law, would have been the duty of the Upper House in July, 1867?

A bill was laid before them at the close of the session involving large and hazardous alterations of the political system which had

been in vogue for five-and-thirty years. It had never been submitted to the judgment of the country, unless the country was represented by the Reform League. It had been turned upside down in committee, and was much wider in its scope than a bill which the same House of Commons had refused to pass the year before. That bill would at the most have added half a million electors to the constituent bodies. This bill would add at least a million, most of them uneducated, and some of them the poorest of the poor. There could hardly be a stronger case for the suspensory action supposed to be exercised by a Chamber of Review. This very session the Lords rejected bills for the abolition of church rates, and for the removal of religious tests in the universities, which had been repeatedly passed by the Commons. What happened? The leader of a great party, the prime minister of England, summoned what in America was called a caucus. Before the debate on the second reading he assembled at his own house a hundred Conservative peers, and told them that he wished the bill to pass with the fewest possible amendments in the shortest possible time. He intimated, nor obscurely, that if it failed to pass, he should resign. He had threatened in the event of its rejection by the Commons to dissolve. But a dissolution has no terrors for the peers, whereas they dreaded a Liberal, perhaps a Radical, government as the worst of calamities.

Accordingly, after two nights' debate, the bill was read a second time without a division. The speeches were not remarkable, but Lord Derby heard a good deal of plain speaking from Lord Carnarvon, who proclaimed and lamented, in language borrowed from Disraeli's attack upon Peel, that conservatism was an organized hypocrisy. The prime minister, with his accustomed frankness, explained that he did not intend for a third time to be made a mere stop-gap until it should suit the convenience of the Liberal party to forget their dissensions, and bring forward a measure which should oust him from office and place them there. Lord Shaftesbury delivered the ablest attack upon the bill, and Lord Cairns the ablest defence of it. But a discussion which is not to be followed by a trial of strength in the lobbies has seldom much life in it, and this was no exception to the rule. Some important changes were made in the committee. But as only one of them was accepted by the House of Commons and became law, it is needless to recapitulate the others. Lord Cairns, taking up a suggestion made by Lord Russell, proposed that in constituencies returning three members no one should vote for more than two





candidates, nor in the city of London, which returned four members, for more than three. This idea of representing minorities was less objectionable than the cumulative vote which Mr. Lowe had vainly proposed in the House of Commons. Although Bright, Gladstone, and Disraeli united in disapproving of it, it was accepted for the sake of agreement between the houses, and became law, perhaps the single instance of a political innovation made by a judge.

Lord Derby's final speech on the motion that "this bill do pass" contained his frank and famous acknowledgment that he was "taking a leap in the dark." His next words, however, were an expression of confidence in the sound sense of his fellow-countrymen, and ignorance of the future is not the charge against the government of 1867. The act was, on the whole, useful and beneficial. The county franchise was indeed merely tinkered, and the scheme of redistribution little better than a sham. But the borough franchise, both for householders and for lodgers, was placed upon a firm and solid foundation which has stood the test of time. If the characters of public men were of no public importance, this would be a conclusive defence for Lord Derby and Mr. Disraeli. But it was impossible for them to deny either that in 1866 they opposed and destroyed a Reform Bill much more Conservative than their own, or that in 1867 they abandoned safeguard after safeguard which they had pronounced essential to the welfare of the State.

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## CHAPTER IV

### THE ENFRANCHISEMENT OF THE RURAL LABORER

THE general election of 1880 gave the Liberals a large majority over both Conservatives and Home Rulers. In the Cabinet organized by Mr. Gladstone there were three distinguished Radicals, Mr. Bright, Mr. Chamberlain, and Sir Charles Dilke; but three years passed before an attempt was made to force a further extension of the franchise. After several disturbing events such as the troubles in Ireland, Egypt, and South Africa, the strength of the government's support throughout the country was sensibly diminished. Partly from principle and partly from a political design to complete the ruin of the Conservatives, the ministry decided to enfranchise the agricultural laborers and thus retain the confidence of all Radicals and get the support of the new voters. In his work on Mr. Gladstone, Mr. Morley gives a full account of the last of the great political reforms.

### § 1. *Parliamentary Representation after 1867—the New Measure*[1]

The question of extending to householders in the country the franchise that in 1867 had been conferred on householders in boroughs, had been first pressed with eloquence and resolution by Mr. Trevelyan. In 1876 he introduced two resolutions, one for extended franchise, the other for a new arrangement of seats, made necessary by the creation of the new voters. In a Tory Parliament he had, of course, no chance. Mr. Gladstone, not naturally any more ardent for change in political machinery than Burke or Canning had been, was in no hurry about it, but was well aware that the triumphant Parliament of 1880 could not be allowed to expire without the effective adoption by the government

[1] Morley, *Life of Gladstone*, Vol. III, pp. 124 ff. By permission of The Macmillan Company, Publishers.

of proposals in principle such as those made by Mr. Trevelyan in 1876. One wing of the Cabinet hung back. Mr. Gladstone himself, reading the signs in the political skies, felt that the hour had struck; the Cabinet followed, and the bill was framed. Never, said Mr. Gladstone, was a bill so large in respect of the numbers to have votes, so innocent in point of principle, for it raised no new questions and sprang from no new principles. It went, he contended, and most truly contended, to the extreme of consideration for opponents, and avoided several points that had special attractions for friends. So likewise the general principles on which redistribution of seats would be governed were admittedly framed in a conservative spirit.

The comparative magnitude of the operation was thus described by Mr. Gladstone (February 28, 1884): —

"In 1832 there was passed what was considered a Magna Charta of British liberties; but that Magna Charta of British liberties added, according to the previous estimate of Lord John Russell, 500,000, while according to the results considerably less than 500,000 were added to the entire constituency of the three countries. After 1832 we come to 1866. At that time the total constituency of the United Kingdom reached 1,364,000. By the bills which were passed between 1867 and 1869 that number was raised to 2,448,000. Under the action of the present law the constituency has reached in round numbers what I would call 3,000,000. This bill, if it passes as presented, will add to the English constituency over 1,300,000 persons. It will add to the Scotch constituency, Scotland being at present rather better provided in this respect than either of the other countries, over 200,000, and to the Irish constituency over 400,000; or in the main, to the present aggregate constituency of the United Kingdom taken at 3,000,000, it will add 2,000,000 more, nearly twice as much as was added since 1867, and more than four times as much as was added in 1832."

The bill was read a second time (April 7) by the overwhelming majority of 340 against 210. Even those who most disliked the measure admitted that a majority of this size could not be made light of, though they went on in charity to say that it did not represent the honest opinion of those who composed it. It was, in fact, as such persons argued, the strongest proof of the degradation brought into our politics by the act of 1867. "All the bribes of Danby or of Walpole or of Pelham," cried one excited critic, "all the bullying of the Tudors, all the lobbying of George III,

would have been powerless to secure it in the most corrupt or the most servile days of the ancient House of Commons."

### § 2. *Stoppage in the House of Lords*

On the third reading the opposition disappeared from the House, and on Mr. Gladstone's prompt initiative it was placed on record in the journals that the bill had been carried by a unanimous verdict. It went to the Lords, and by a majority first of fifty-nine and then of fifty they put what Mr. Gladstone mildly called "an effectual stoppage on the bill, or in other words they did practically reject it." The plain issue, if we may call it plain, was this. What the Tories, with different degrees of sincerity, professed to dread was that the election might take place on the new franchise, but with an unaltered disposition of Parliamentary seats. At heart the bulk of them were as little friendly to a lowered franchise in the counties as they had been in the case of the towns before Mr. Disraeli educated them. But this was a secret dangerous to let out, for the enfranchised workers in the towns would never understand why workers in the villages should not have a vote.

Apart from this the Tory leaders believed that unless the allotment of seats went with the addition of a couple of million new voters, the prospect would be ruinously unfavorable to their party, and they offered determined resistance to the chance of a jockeying operation of this kind. At least one very eminent man among them had privately made up his mind that the proceeding supposed to be designed by their opponents — their distinct professions notwithstanding — would efface the Tory party for thirty years to come. Mr. Gladstone and his government on the other hand agreed, on grounds of their own and for reasons of their own, that the two changes should come into operation together. What they contended was, that to tack redistribution on to franchise was to scotch or kill franchise. "I do not hesitate to say," Mr. Gladstone told his electors, "that those who are opposing us, and making use of this topic of redistribution of seats as a means for defeating the Franchise Bill, know as well as we do that, had we been such idiots and such dolts as to present to Parliament a bill for the combined purpose, or to bring in two bills for the two purposes as one measure — I say, they know as well as we do, that a disgraceful failure would have been the result of our folly, and that we should have been traitors to you, and to the cause we had in hand." Disinterested onlookers thought there ought to be no

great difficulty in securing the result that both sides desired. As the Duke of Argyll put it to Mr. Gladstone, if in a private business two men were to come to a breach, when standing so near to one another in aim and profession, they would be shut up in bedlam. This is just what the judicious reader will think to-day.

### § 3. *Double Agitation throughout the Country*

The controversy was transported from Parliament to the platform, and a vigorous agitation marked the autumn recess. It was a double agitation. What began as a campaign on behalf of the rural householder, threatened to end as one against hereditary legislators. It is a well-known advantage in movements of this sort to be not only for, but also against, somebody or something; against a minister, by preference, or if not an individual, then against a body. A hereditary legislature in a community that has reached the self-governing stage is an anachronism that makes the easiest of all marks for mockery and attack, so long as it lasts. Nobody can doubt that if Mr. Gladstone had been the frantic demagogue or fretful revolutionist that his opponents thought, he now had an excellent chance of bringing the question of the House of Lords irresistibly to the front. As it was, in the midst of the storm raised by his lieutenants and supporters all over the country, he was the moderating force, elaborately appealing, as he said, to the reason rather than the fears of his opponents. . . .

In August, Mr. Gladstone submitted to the Queen a memorandum on the political situation. It was much more elaborate than the ordinary official submissions. Lord Granville was the only colleague who had seen it, and Mr. Gladstone was alone responsible for laying it before the sovereign. It is a masterly statement of the case, starting from the assumption for the sake of argument that the Tories were right and the Liberals wrong as to the two bills; then proceeding on the basis of a strongly expressed desire to keep back a movement for organic change; next urging the signs that such a movement would go forward with irresistible force if the bill were again rejected, and concluding thus: —

"I may say in conclusion that there is no personal act if it be compatible with personal honor and likely to contribute to an end which I hold very dear, that I would not gladly do for the purpose of helping to close the present controversy, and in closing it to prevent the growth of one probably more complex and more formidable."

ment, tempered, unrhetorical, almost dispassionate,
ing-point of proceedings that, after enormous difficul-
ı surmounted by patience and perseverance, working
power in Parliament and his authority in the coun-
final pacification and a sound political settlement. It
ıdstone's statesmanship that brought this pacification
d within reach.

ı was deeply struck both by the force of his arguments
:st tone in which they were pressed. Though doubting
e was any strong desire for a change in the position of
Lords, still she "did not shut her eyes to the possible
ıe situation" (August 31). She seemed inclined to
teps for ascertaining the opinion of the leaders of
vith a view to inducing them to modify their programme.
)f Richmond visited Balmoral (September 13); but
Gladstone, then himself on Deeside, heard what had
: direction of compromise, he could only say, "Waste

To all suggestions of a dissolution on the case in
Gladstone said to a confidential emissary from Bal-

ill I be a party to dissolving in order to determine
Lords or the Commons were right upon the Franchise
ave anything to do with dissolution, it will be a disso-

It was reported to Mr. Gladstone that his speeches in Scotland (though they were marked by much restraint) created some displeasure at Balmoral. He wrote to Lord Granville (September 26): —

"The Queen does not know the facts. If she did, she would have known that while I have been compelled to deviate from the intention of speaking only to constituents which (with much difficulty) I kept until Aberdeen, I have thereby (and again with much difficulty in handling the audiences, every one of which would have wished a different course of proceeding) been enabled to do much in the way of keeping the question of organic change in the House of Lords out of the present stage of the controversy." . . .

### § 4. *Mr. Gladstone and the House of Lords*

Meanwhile Mr. Gladstone was hard at work in other directions. He was urgent (October 2) that Lord Granville should make every effort to bring more peers into the fold to save the bill when it reappeared in the autumn session. He had himself "garnered in a rich harvest" of bishops in July. On previous occasions he had plied the episcopal bench with political appeals, and this time he wrote to the Archbishop of Canterbury: —

" July 21, 1884. I should have felt repugnance and scruple about addressing your Grace at any time on any subject of a political nature if it were confined within the ordinary limits of such subjects. But it seems impossible to refuse credit to the accounts which assure us that the peers of the Opposition, under Lord Salisbury and his coadjutors, are determined to use all their strength and influence for the purpose of throwing out the Franchise Bill in the House of Lords; and thus of entering upon a conflict with the House of Commons, from which at each step in the proceeding it may probably become more difficult to retire, and which, if left to its natural course, will probably develop itself into a constitutional crisis of such an order as has not occurred since 1832. . . ."

To Tennyson, the possessor of a spiritual power even more than archiepiscopal, who had now a place among peers temporal, he addressed a remonstrance (July 6): —

". . . Upon consideration I cannot help writing a line, for I must hope that you will reconsider your intention. The best mode in which I can support a suggestion seemingly so audacious is by informing you, that all sober-minded conservative peers are in great

dismay at this wild proceeding of Lord Salisbury; that the ultra-Radicals and Parnellites, on the other hand, are in a state of glee, as they believe, and with good reason, that the battle once begun will end in some great humiliation to the House of Lords, or some important change in its composition. That (to my knowledge) various bishops of conservative leanings are, on this account, going to vote with the government — as may be the case with lay peers also. That you are the only peer, so far as I know, associated with Liberal ideas or the Liberal party, who hesitates to vote against Lord Salisbury."

In the later stage of this controversy, Tennyson shot the well-known lines at him: —

> Steersman, be not precipitate in thine act
> Of steering, for the river here, my friend,
> Parts in two channels, moving to one end —
> This goes straight forward to the cataract:
> That streams about the bend.
> But tho' the cataract seems the nearer way,
> Whate'er the crowd on either bank may say,
> Take thou "the bend," 'twill save thee many a day.

To a poet who made to his generation such exquisite gifts of beauty and pleasure, the hardest of party-men may pardon unseasonable fears about franchise and one-horse constituencies. As matter of fact and in plain prose, this taking of the bend was exactly what the steersman had been doing, so as to keep other people out of the cataracts. . . .

To Mr. Chamberlain, who was in his element, or in one of his elements, Mr. Gladstone wrote (October 8): —

"I see that Salisbury by his declaration in the *Times* of Saturday, that the Lords are to contend for the simultaneous passing of the two bills, has given you an excellent subject for denunciation, and you may safely denounce him to your heart's content. But I earnestly hope that you will leave us all elbow room on other questions which may arise. If you have seen my letters (virtually) to the Queen, I do not think that you will have found reason for alarm in them. I am sorry that Hartington the other day used the word *compromise*, a word which has never passed my lips, though I believe he meant nothing wrong. If we could find anything which, though surrendering nothing substantial, would build a bridge for honorable and moderate men to retreat by, I am sure you would not object to it. But I have a much stronger plea for your reserve than any request of my own. It is this, that





the Cabinet has postponed discussing the matter until Wednesday simply in order that you may be present and take your share. They meet at twelve. I shall venture to count on your doing nothing to narrow the ground left open to us, which is indeed but a stinted one."

### § 5. *Attempts at Conciliation*

Three days later (October 11) the Queen, writing to the prime minister, was able to mark a further stage: —

"Although the strong expressions used by ministers in their recent speeches have made the task of conciliation undertaken by the Queen a most difficult one, she is so much impressed with the importance of the issue at stake that she has persevered in her endeavors, and has obtained from the leaders of the Opposition an expression of their readiness to negotiate on the basis of Lord Hartington's speech at Hanley. In the hope that this *may* lead to a compromise, the Queen has suggested that Lord Hartington may enter into communication with Lord Salisbury, and she trusts, from Mr. Gladstone's telegram received this morning, that he will empower Lord Hartington to discuss the possibility of an agreement with Lord Salisbury."

In acknowledgment, Mr. Gladstone offered his thanks for all her Majesty's "well-timed efforts to bring about an accommodation." He could not, however, he proceeded, feel sanguine as to obtaining any concession from the leaders, but he is very glad that Lord Hartington should try.

Happily, and as might have been expected by anybody who remembered the action of the sensible peers who saved the Reform Bill in 1832, the rash and headstrong men in high places in the Tory party were not allowed to have their own way. Before the autumn was over, prudent members of the Opposition became uneasy. They knew that in substance the conclusion was foregone, but they knew also that just as in their own body there was a division between hothead and moderate, so in the Cabinet they could count upon a Whig section, and probably upon the prime minister as well. They noted his words spoken in July: "It is not our desire to see the bill carried by storm and tempest. It is our desire to see it win its way by persuasion and calm discussion to the rational minds of men."

Meanwhile Sir Michael Hicks-Beach had already, with the knowledge and without the disapproval of other leading men on the Tory side, suggested an exchange of views to Lord Hartington,

who was warmly encouraged by the Cabinet to carry on communications, as being a person peculiarly fitted for the task, "enjoying full confidence on one side," as Mr. Gladstone said to the Queen, "and probably more on the other side than any other minister could enjoy." These two cool and able men took the extension of county franchise for granted, and their conferences turned pretty exclusively on redistribution. Sir Michael pressed the separation of urban from rural areas, and what was more specifically important was his advocacy of single-member or one-horse constituencies. His own long experience of a scattered agricultural division had convinced him that such areas with household suffrage would be unworkable. Lord Hartington knew the advantage of two-member constituencies for his party, because they made an opening for one Whig candidate and one Radical. But he did not make this a question of life or death, and the ground was thoroughly well hoed and raked. Lord Salisbury, to whom the nature of these communications had been made known by the colleague concerned, told him of the suggestion from the Queen, and said that he and Sir Stafford Northcote had unreservedly accepted it. So far the Cabinet had found the several views in favor with their opponents as to electoral areas rather more sweeping and radical than their own had been, and they hoped that on the basis thus informally laid they might proceed to the more developed conversation with the two official leaders. Then the Tory ultras interposed.

On the last day of October the Queen wrote to Mr. Gladstone from Balmoral: —

"The Queen thinks that it would be a means of arriving at some understanding if the leaders of the parties in both houses could exchange their views personally. The Duke of Argyll or any other person unconnected for the present with the government or the Opposition might be employed in bringing about a meeting, and in assisting to solve difficulties. The Queen thinks the government should in any project forming the basis of resolutions on redistribution to be proposed to the House distinctly define their plans at such a personal conference. The Queen believes that were assurance given that the redistribution would not be wholly inimical to the prospects of the Conservative party, their concurrence might be obtained. The Queen feels most strongly that it is of the utmost importance that in this serious crisis such means, even if unusual, should be tried, and knowing how fully Mr. Gladstone recognizes the great danger that might arise by prolonging the

conflict, the Queen earnestly trusts that he will avail himself of such means to obviate it."

The Queen then wrote to Lord Salisbury in the same sense in which she had written to the prime minister. Lord Salisbury replied that it would give him great pleasure to consult with anybody the Queen might desire, and that in obedience to her commands he would do all that lay in him to bring the controversy finally to a just and honorable issue. He went on, however, to say, in the caustic vein that was one of his ruling traits, that while cheerfully complying with the Queen's wishes, he thought it right to add that, so far as his information went, no danger attached to the prolongation of the controversy for a considerable time, nor did he believe that there was any real excitement in the country about it. The Queen, in replying (November 5), said that she would at once acquaint Mr. Gladstone with what he had said.

### § 6. *Re-introduction of the Franchise Bill*

The autumn session began, and the Franchise Bill was introduced again. Three days later, in consequence of a communication from the other camp, the debate on the second reading was conciliatory; but the Tories won a by-election, and the proceedings in committee became menacing and clouded. Discrepancies abounded in the views of the Opposition upon redistribution. When the third reading came (November 11), important men on the Tory side insisted on the production of a Seats Bill, and declared there must be no communication with the enemy. Mr. Gladstone was elaborately pacific. If he could not get peace, he said, at least let it be recorded that he desired peace. The parleys of Lord Hartington and Sir Michael Hicks-Beach came to an end.

Mr. Gladstone, late one night soon after this (November 14), had a long conversation with Sir Stafford Northcote at the house of a friend. He had the authority of the Cabinet (not given for this special interview) to promise the introduction of a Seats Bill before the committee stage of the Franchise Bill in the Lords, provided he was assured that it could be done without endangering or retarding franchise. Northcote and Mr. Gladstone made good progress on the principles of redistribution. Then came an awkward message from Lord Salisbury, that the Lords could not let the Franchise Bill through, until they got the Seats Bill from the Commons. So negotiations were again broken off.

The only hope now was that a sufficient number of Lord Salis-

bury's adherents would leave him in the lurch, if he did not close with what was understood to be Mr. Gladstone's engagement, to procure and press a Seats Bill as soon as ever franchise was out of danger. So it happened, and the door that had thus been shut speedily opened. Indirect communication reached the treasury bench that seemed to show the leaders of Opposition to be again alive. There were many surmises, everybody was excited, and two great Tory leaders in the Lords called on Lord Granville one day, anxious for a *modus vivendi*. Mr. Gladstone in the Commons, in conformity with a previous decision of the Cabinet, declared the willingness of the government to produce a bill or explain its provisions, on receiving a reasonable guarantee that the Franchise Bill would be passed before the end of the sittings. The ultras of the Opposition still insisted on making bets all round that the Franchise Bill would not become law; besides betting, they declared they would die on the floor of the House in resisting an accommodation. A meeting of the party was summoned at the Carlton Club for the purpose of declaring war to the knife, and Lord Salisbury was reported to hold to his determination. This resolve, however, proved to have been shaken by Mr. Gladstone's language on a previous day. The general principles of redistribution had been sufficiently sifted, tested, and compared to show that there was no insuperable discrepancy of view. It was made clear to Lord Salisbury circuitously, that though the government required adequate assurances of the safety of franchise before presenting their scheme upon seats, this did not preclude private and confidential illumination. So the bill was read a second time.

### § 7. *Party Negotiations and Compromise*

All went prosperously forward. On November 19, Lord Salisbury and Sir S. Northcote came to Downing Street in the afternoon, took tea with the prime minister, and had a friendly conversation for an hour in which much ground was covered. The heads of the government scheme were discussed and handed to the Opposition leaders. Mr. Gladstone was well satisfied. He was much struck, he said after, with the quickness of the Tory leader, and found it a pleasure to deal with so acute a man. Lord Salisbury, for his part, was interested in the novelty of the proceeding; for no precedent could be found in our political or party history for the discussion of a measure before its introduction between the leaders of the two sides. This novelty stirred his curiosity, while he also kept a sharp eye on the main party chance. He

proved to be entirely devoid of respect for tradition, and Mr. Gladstone declared himself to be a strong conservative in comparison. The meetings went on for several days through the various parts of the questions, Lord Hartington, Lord Granville, and Sir Charles Dilke being also taken into council — the last of the three being unrivalled master of the intricate details.

The operation was watched with jealous eyes by the Radicals, though they had their guardians in the Cabinet. To Mr. Bright who, having been all his life denounced as a violent republican, was now in the view of the new school hardly even so much as a sound Radical, Mr. Gladstone thought it well to write (November 25) words of comfort, if comfort were needed: —

"I wish to give you the assurance that in the private communications which are now going on, Liberal principles such as we should conceive and term them are in no danger. Those with whom we confer are thinking without doubt of party interests, as affected by this or that arrangement; but these are a distinct matter, and I am not so good at them as some others; but the general proposition which I have stated is I think one which I can pronounce with some confidence. . . . The whole operation is essentially delicate and slippery, and I can hardly conceive any other circumstances in which it would be justified, but in the present very peculiar case I think it is not only warranted, but called for."

On November 27 all was well over, and Mr. Gladstone was able to inform the Queen that "the delicate and novel communications" between the two sets of leaders had been brought to a happy termination. "His first duty," he said, "was to tender his grateful thanks to your Majesty for the wise, gracious, and steady influence on your Majesty's part which has so powerfully contributed to bring about this accommodation, and to avert a serious crisis of affairs." He adds that "his cordial acknowledgments are due to Lord Salisbury and Sir Stafford Northcote for the manner in which they have conducted their difficult communications." The Queen promptly replied: "I gladly and thankfully return your telegrams. To be able to be of use is all I care to live for now." By way of winding up negotiations so remarkable, Mr. Gladstone wrote to Lord Salisbury to thank him for his kindness, and to say that he could have desired nothing better in candor and equity. Their conversation on the Seats Bill would leave him none but the most agreeable recollections.[1]

[1] Compare this account with Churchill, *Lord Randolph Churchill*, Vol. I, chaps. vi. ff.

# CHAPTER V

## THE CABINET SYSTEM

THE great measures which transformed England into a political democracy left untouched the outward forms of the Constitution. The sovereign retained nominally at least the ancient dignities and prerogatives, and the hereditary House of Lords continued to hold its full powers as an integral part of the legislature. In external forms the government appeared very much as it did in the days of Henry VIII when the king appointed and dismissed his ministers at will and summoned Parliament at his pleasure. However, since that time the practice had grown up of compelling the sovereign to accept only those ministers who had the support of a majority of the House of Commons. This practice, which was greatly furthered in the age of Walpole, became settled custom in the nineteenth century, and must be thoroughly examined by any one who would know the actual workings of the government of Great Britain. In Mr. Bagehot's famous book on the English Constitution we have a charming account of many features of the English system.

### § 1. *The Crown and Selection of Ministers* [1]

The efficient secret of the English Constitution may be described as the close union, the nearly complete fusion, of the executive and legislative powers. No doubt by the traditional theory, as it exists in all the books, the goodness of our Constitution consists in the entire separation of the legislative and executive authorities, but in truth its merit consists in their singular approximation. The connecting link is the Cabinet. By that new word we mean a committee of the legislative body selected to be the executive body.

[1] Bagehot, *The English Constitution*, chap. ii.

The legislature has many committees, but this is the greatest. It chooses for this, its main committee, the men in whom it has most confidence. It does not, it is true, choose them directly; but it is nearly omnipotent in choosing them indirectly. A century ago the crown had a real choice of ministers, though it had no longer a choice in policy. During the long reign of Sir R. Walpole he was obliged not only to manage Parliament, but to manage the palace. He was obliged to take care that some court intrigue did not expel him from his place. The nation then selected the English policy, but the crown chose the English ministers. They were not only in name, as now, but in fact, the queen's servants. Remnants, important remnants, of this great prerogative still remain. The discriminating favor of William IV made Lord Melbourne head of the Whig party when he was only one of several rivals. . . . But as a rule, the nominal prime minister is chosen by the legislature, and the real prime minister for most purposes — the leader of the House of Commons — almost without exception is so.

### § 2. *The Prime Minister and Choice of his Associates*

There is nearly always some one man plainly selected by the voice of the predominant party in the predominant house of the legislature to head that party, and consequently to rule the nation. We have in England an elective first magistrate as truly as the Americans have an elective first magistrate. The queen is only at the head of the dignified part of the Constitution. The prime minister is at the head of the efficient part. The crown is, according to the saying, the "fountain of honor"; but the treasury is the spring of business. Nevertheless our first magistrate differs from the American. He is not elected directly by the people, he is elected by the representatives of the people. He is an example of "double election." The legislature chosen, in name, to make laws, in fact finds its principal business in making and in keeping an executive.

The leading minister so selected has to choose his associates, but he only chooses among a charmed circle. The position of most men in Parliament forbids their being invited to the Cabinet; the position of a few men insures their being invited. Between the compulsory list whom he must take, and the impossible list whom he cannot take, a prime minister's independent choice in the formation of a Cabinet is not very large; it extends rather to the division of the Cabinet offices than to the choice of Cabinet ministers. Parliament and the nation have pretty well settled who shall have

the first places; but they have not discriminated with the same accuracy which man shall have which place. The highest patronage of a prime minister is, of course, a considerable power, though it is exercised under close and imperative restrictions — though it is far less than it seems to be when stated in theory, or looked at from a distance.

The Cabinet, in a word, is a board of control chosen by the legislature, out of persons whom it trusts and knows, to rule the nation. The particular mode in which the English ministers are selected; the fiction that they are, in any political sense, the queen's servants; the rule which limits the choice of the Cabinet to the members of the legislature are accidents unessential to its definition — historical incidents separable from its nature. Its characteristic is that it should be chosen by the legislature out of persons agreeable to and trusted by the legislature. Naturally these are principally its own members; but they need not be exclusively so. A Cabinet which included persons not members of the legislative assembly might still perform all useful duties. Indeed, the peers who constitute a large element in modern Cabinets are members, nowadays, only of a subordinate assembly.

The House of Lords still exercises several useful functions; but the ruling influence, the deciding faculty, has passed to what, using the language of old times, we still call the Lower House — to an assembly which, though inferior as a dignified institution, is superior as an efficient institution. A principal advantage of the House of Lords in the present age indeed consists in its thus acting as a reservoir of Cabinet ministers. Unless the composition of the House of Commons were improved, or unless the rules requiring Cabinet ministers to be members of the legislature were relaxed, it would undoubtedly be difficult to find, without the Lords, a sufficient supply of chief ministers. But the detail of the composition of a Cabinet, and the precise method of its choice, are not to the purpose now.

### § 3. *Principal Features of the Cabinet*

The first and cardinal consideration is the definition of a Cabinet. We must not bewilder ourselves with the inseparable accidents until we know the necessary essence. A Cabinet is a combining committee, a *hyphen* which joins, a *buckle* which fastens, the legislative part of the State to the executive part of the State. In its origin it belongs to the one, in its functions it belongs to the other.

The most curious point about the Cabinet is that so very little is known about it. The meetings are not only secret in theory, but secret in reality. By the present practice no official minute in all ordinary cases is kept of them. Even a private note is discouraged and disliked. The House of Commons, even in its most inquisitive and turbulent moments, would scarcely permit a note of a Cabinet meeting to be read. No minister who respected the fundamental usages of political practice would attempt to read such a note. The committee, which unites the law-making power to the law-executing power which, by virtue of that combination, is, while it lasts and holds together, the most powerful body in the State, is a committee wholly secret. No description of it, at once graphic and authentic, has ever been given. It is said to be sometimes like a rather disorderly board of directors, where many speak and few listen, though no one knows.

But a Cabinet, though it is a committee of the legislative assembly, is a committee with a power which no assembly would, unless for historical accidents, and after happy experience, have been persuaded to intrust to any committee. It is a committee which can dissolve the assembly which appointed it; it is a committee with a suspensive veto; a committee with a power of appeal. Though appointed by one Parliament, it can appeal if it chooses to the next. Theoretically, indeed, the power to dissolve Parliament is intrusted to the sovereign only; and there are vestiges of doubt whether in all cases a sovereign is bound to dissolve Parliament when the Cabinet asks him to do so. But neglecting such small and dubious exceptions, the Cabinet which was chosen by one House of Commons has an appeal to the next House of Commons.

The chief committee of the legislature has the power of dissolving the predominant part of that legislature — that which at a crisis is the supreme legislature. The English system, therefore, is not an absorption of the executive power by the legislative power; it is a fusion of the two. Either the Cabinet legislates and acts, or else it can dissolve. It is a creature, but it has the power of destroying its creators. It is an executive which can annihilate the legislature, as well as an executive which is the nominee of the legislature. It was made, but it can unmake; it was derivative in its origin, but it is destructive in its action.

This fusion of the legislative and executive functions may, to those who have not much considered it, seem but a dry and small matter to be the latent essence and effectual secret of the English Constitution; but we can only judge of its real importance by

looking at a few of its principal effects, and contrasting it very shortly with its great competitor, which seems likely, unless care be taken, to outstrip it in the progress of the world. That competitor is the presidential system. The characteristic of it is that the President is elected from the people by one process, and the House of Representatives by another. The independence of the legislative and executive powers is the specific quality of presidential government, just as their fusion and combination is the precise principle of Cabinet government.

### § 4. *Comparison of Presidential and Cabinet Systems*

First, compare the two in quiet times. The essence of a civilized age is, that administration requires the continued aid of legislation. One principal and necessary kind of legislation is taxation. The expense of civilized government is continually varying. It must vary if the government does its duty. The miscellaneous estimates of the English government contain an inevitable medley of changing items. Education, prison discipline, art, science, civil contingencies of a hundred kinds, require more money one year and less another. The expense of defence, the naval and military estimates, vary still more as the danger of attack seems more or less imminent, as the means of retarding such danger become more or less costly. If the persons who have to do the work are not the same as those who have to make the laws, there will be a controversy between the two sets of persons. The tax-imposers are sure to quarrel with the tax-requirers. The executive is crippled by not getting the law it needs, and the legislature is spoiled by having to act without responsibility; the executive becomes unfit for its name since it cannot execute what it decides on; the legislature is demoralized by liberty, by taking decisions of which others (and not itself) will suffer the effects.

In America so much has this difficulty been felt that a semi-connection has grown up between the legislature and the executive. When the Secretary of the Treasury of the Federal government wants a tax, he consults upon it with the chairman of the financial committee of Congress. He cannot go down to Congress himself and propose what he wants; he can only write a letter and send it. But he tries to get a chairman of the finance committee who likes his tax; through that chairman he tries to persuade the committee to recommend such a tax; by that committee he tries to induce the House to adopt that tax. But such a chain of communications is

liable to continual interruptions; it may suffice for a single tax on a fortunate occasion, but will scarcely pass a complicated budget — we do not say in a war or a rebellion — we are now comparing the Cabinet system and the presidential system in quiet times, but in times of financial difficulty. Two clever men never exactly agreed about a budget. We have by present practice an Indian Chancellor of the Exchequer talking English finance at Calcutta, and an English one talking Indian finance in England. But the figures are never the same, and the views of policy are rarely the same. One most angry controversy has amused the world, and probably others scarcely less interesting are hidden in the copious stores of our Anglo-Indian correspondence.

But relations something like these must subsist between the head of a finance committee in the legislature and a finance minister in the executive. They are sure to quarrel, and the result is sure to satisfy neither. And when the taxes do not yield as they were expected to yield, who is responsible? Very likely the Secretary of the Treasury could not persuade the chairman; very likely the chairman could not persuade his committee; very likely the committee could not persuade the assembly. Whom, then, can you punish; whom can you abolish when your taxes run short? There is nobody save the legislature — a vast miscellaneous body difficult to punish, and the very persons to inflict the punishment.

Nor is the financial part of administration the only one which requires in a civilized age the constant support and accompaniment of facilitating legislation. All administration does so. In England, on a vital occasion, the Cabinet can compel legislation by the threat of resignation, and the threat of dissolution; but neither of these can be used in a presidential State. There the legislature cannot be dissolved by the executive government, and it does not need a resignation, for it has not to find the successor. Accordingly, when a difference of opinion arises, the legislature is forced to fight the executive, and the executive is forced to fight the legislative; and so very likely they contend to the conclusion of their respective terms. There is, indeed, one condition of things in which this description, though still approximately true, is, nevertheless, not exactly true, and that is, when there is nothing to fight about. Before the Rebellion in America, owing to the vast distance of other States, and the favorable economical condition of the country, there were very few considerable objects of contention; but if that government had been tried by the English legislation

of the last thirty years, the discordant action of the two powers, whose constant coöperation is essential to the best government, would have shown itself much more distinctly.

### § 5. *Political Education of the Nation*

Nor is this the worst. Cabinet government educates the nation; the presidential does not educate it, and may corrupt it. It has been said that England invented the phrase, "Her Majesty's opposition"; that it was the first government which made a criticism of administration as much a part of the polity as administration itself. This critical opposition is the consequence of Cabinet government. The great scene of debate, the great engine of popular instruction and political controversy, is the legislative assembly. A speech there by an eminent statesman, a party movement by a great political combination, are the best means yet known for arousing, enlivening, and teaching a people. The Cabinet system insures such debates, for it makes them the means by which statesmen advertise themselves for future and confirm themselves in present governments. It brings forward men eager to speak, and gives them occasions to speak.

The deciding catastrophes of Cabinet governments are critical divisions preceded by fine discussions. Everything which is worth saying, everything which ought to be said, most certainly will be said. Conscientious men think they ought to persuade others; selfish men think they would like to obtrude themselves. The nation is forced to hear two sides — all the sides, perhaps, of that which most concerns it. And it likes to hear, it is eager to know. Human nature despises long arguments which come to nothing; heavy speeches which precede no motion; abstract disquisitions which leave visible things where they were. But all men heed great results, and a change of government is a great result. It has a hundred ramifications; it runs through society; it gives hope to many, and it takes away hope from many. It is one of those marked events which, by its magnitude and its melodrama, impress men even too much. And debates which have this catastrophe at the end of them, or may so have it, are sure to be listened to, and sure to sink deep into the national mind.

Travellers even in the Northern States of America, the greatest and best of presidential countries, have noticed that the nation was "not specially addicted to politics"; that they have not a public opinion finished and chastened as that of the English has been

finished and chastened. A great many hasty writers have charged this defect on the "Yankee race," on the Anglo-American character; but English people, if they had no motive to attend to politics, certainly would not attend to politics. At present there is business in their attention. They assist at the determining crisis; they assist or help it. Whether the government will go out or remain, is determined by the debate, and by the division in Parliament. And the opinion out of doors, the secret pervading disposition of society, has a great influence on that division. The nation feels that its judgment is important, and it strives to judge. It succeeds in deciding because the debates and the discussions give it the facts and the arguments.

But under a presidential government a nation has, except at the electing moment, no influence; it has not the ballot box before it; its virtue is gone, and it must wait till its instant of despotism again returns. It is not incited to form an opinion like a nation under a Cabinet government, nor is it instructed like such a nation. There are doubtless debates in the legislature, but they are prologues without a play. There is nothing of a catastrophe about them; you cannot turn out the government. The prize of power is not in the gift of the legislature, and no one cares for the legislature. The executive, the great centre of power and place, sticks irremovable; you cannot change it in any event. The teaching apparatus which has educated our public mind, which prepares our resolutions, which shapes our opinions, does not exist. No presidential country needs to form daily, delicate opinions, or is helped in forming them.

It might be thought that the discussions in the press would supply the deficiencies in the Constitution; that by a reading people, especially, the conduct of their government would be as carefully watched, that their opinion about it would be as consistent, as accurate, as well considered, under a presidential as under a Cabinet polity. But the same difficulty oppresses the press which oppresses the legislature. It can *do nothing*. It cannot change the administration; the executive was elected for such and such years, and for such and such years it must last. People wonder that so literary a people as the Americans — a people who read more than any people who ever lived, who read so many newspapers — should have such bad newspapers. The papers are not so good as the English, because they have not the same motive to be good as the English papers.

### § 6. *The Press and Politics*

tical "crisis," as we say, that is, when the fate of an ion is unfixed, when it depends on a few votes, yet pon a wavering and veering opinion, effective articles urnals become of essential moment. The *Times* has ministries. When, as of late, there has been a long of divided Parliaments, of governments which were rute voting power," and which depended on intellectual e support of the most influential organ of English opin- of critical moment. If a Washington newspaper could l out Mr. Lincoln, there would have been good writ- e argument in the Washington newspapers. But the newspapers can no more remove a president during his ce than the *Times* can remove a lord mayor during his ce. Nobody cares for a debate in Congress which nothing," and no one reads long articles which have e on events. The Americans glance at the heads of hrough the paper. They do not enter upon a discus- ey do not think of entering upon a discussion which seless.

they vanquish; they are auxiliaries if they support. The weakness of the American executive used to be the great theme of all critics before the Confederate Rebellion. Congress and committees of Congress of course impeded the executive when there was no coercive public sentiment to check and rule them.

But the presidential system not only gives the executive power an antagonist in the legislative power, and so makes it weaker; it also enfeebles it by impairing its intrinsic quality. A Cabinet is elected by a legislature; and when that legislature is composed of fit persons, that mode of electing the executive is the very best. It is a case of secondary election, under the only conditions in which secondary election is preferable to primary. Generally speaking, in an electioneering country (I mean in a country full of political life, and used to the manipulation of popular institutions), the election of candidates to elect candidates is a farce. The Electoral College of America is so. It was intended that the deputies when assembled should exercise a real discretion, and by independent choice select the President. But the primary electors take too much interest. They only elect a deputy to vote for Mr. Lincoln or Mr. Breckenridge, and the deputy only takes a ticket and drops that ticket in an urn. He never chooses or thinks of choosing. He is but a messenger, a transmitter; the real decision is in those who chose him — who chose him because they knew what he would do.

It is true that the British House of Commons is subject to the same influences. Members are mostly, perhaps, elected because they will vote for a particular ministry rather than for purely legislative reasons. But — and here is the capital distinction — the functions of the House of Commons are important and continuous. It does not, like the Electoral College, in the United States, separate when it has elected its ruler; it watches, legislates, seats, and unseats ministries from day to day. Accordingly it is a real electoral body. The Parliament of 1857, which, more than any other Parliament of late years, was a Parliament elected to support a particular premier, which was chosen, as Americans might say, upon the "Palmerston ticket," before it had been in existence two years dethroned Lord Palmerston. Though selected in the interest of a particular ministry, it in fact destroyed that ministry.

A good Parliament, too, is a capital choosing body. If it is fit to make laws for a country, its majority ought to represent the general average intelligence of that country; its various members ought to represent the various special interests, special opinions,

special prejudices, to be found in that community. There ought to be an advocate for every particular sect, and a vast neutral body of no sect, homogeneous and judicial, like the nation itself. Such a body, when possible, is the best selecter of executives that can be imagined. It is full of political activity; it is close to political life; it feels the responsibility of affairs which are brought as it were to its threshold; it has as much intelligence as the society in question chances to contain. It is what Washington and Hamilton strove to create — an Electoral College of the picked men of the nation.

The best mode of appreciating its advantages is to look at the alternative. The competing constituency is the nation itself, and this is, according to theory and experience, in all but the rarest cases a bad constituency. Mr. Lincoln, at his second election, being elected when all the Federal States had set their united hearts on one single object, was voluntarily reëlected by an actually choosing nation. He embodied the object in which every one was absorbed. But this is almost the only presidential election of which so much can be said. In almost all cases the President is chosen by a machinery of caucuses and combinations too complicated to be perfectly known and too familiar to require description. He is not the choice of the nation, he is the choice of the wire-pullers. A very large constituency in quiet times is the necessary, almost the legitimate, subject of electioneering management; a man cannot know that he does not throw his vote away except he votes as part of some great organization; and if he votes as a part, he abdicates his electoral function in favor of the managers of that association. The nation, even if it chose for itself, would, in some degree, be an unskilled body; but when it does not choose for itself, but only as latent agitators wish, it is like a large, lazy man, with a small, vicious mind — it moves slowly, and heavily, but it moves at the bidding of a bad intention; it "means *little*, but it means that little *ill*."

### § 8. *Influence of Separation of Powers on the Legislature*

And as the nation is less able to choose than a Parliament, so it has worse people to choose out of. The American legislators of the last century have been much blamed for not permitting the ministers of the President to be members of the assembly; but, with reference to the specific end which they had in view, they saw clearly and decided wisely. They wished to keep "the legislative branch absolutely distinct from the executive branch"; they

believed such a separation to be essential to a good constitution; they believed such a separation to exist in the English, which the wisest of them thought the best Constitution. And, to the effectual maintenance of such a separation, the exclusion of the President's ministers from the legislature is essential. If they are not excluded, they become the executive, they eclipse the President himself. A legislative chamber is greedy and covetous; it acquires as much, it concedes as little as possible. The passions of its members are its rulers; the law-making faculty, the most comprehensive of the imperial faculties, is its instrument; it will take the administration if it can take it. Tried by their own aims, the founders of the United States were wise in excluding the ministers from Congress.

But though this exclusion is essential to the presidential system of government, it is not for that reason a small evil. It causes the degradation of public life. Unless a member of the legislature be sure of something more than speech, unless he is incited by the hope of action, and chastened by the chance of responsibility, a first-rate man will not care to take the place, and will not do much if he does take it. To belong to a debating society adhering to an executive (and this is no inapt description of a Congress under a presidential constitution) is not an object to stir a noble ambition, and is a position to encourage idleness. The members of a Parliament excluded from office can never be comparable, much less equal, to those of a Parliament not excluded from office. The presidential government, by its nature, divides political life into two halves: an executive half and a legislative half; and, by so dividing it, makes neither half worth a man's having — worth his making it a continuous career, worthy to absorb, as Cabinet government absorbs, his whole soul. The statesmen from whom a nation chooses under a presidential system are much inferior to those from whom it chooses under a Cabinet system, while the selecting apparatus is also far less discerning.

### § 9. *Cabinet and Presidential Government in Critical Times*

All these differences are more important at critical periods, because government itself is more important. A formed public opinion, a respectable, able, and disciplined legislature, a well-chosen executive, a Parliament and an administration not thwarting each other, but coöperating with each other, are of greater consequence when great affairs are in progress than when small affairs

are in progress; when there is much to do than when there is little to do. But in addition to this, a Parliamentary or Cabinet constitution possesses an additional and special advantage in very dangerous times. It has what we may call a reserve of power fit for and needed by extreme exigencies.

The principle of popular government is that supreme power, the determining efficacy in matters political, resides in the people — not necessarily or commonly in the whole people, in the numerical majority, but in a chosen people, a picked and selected people. It is so in England; it is so in all free countries. Under a Cabinet constitution at a sudden emergency this people can choose a ruler for the occasion. It is quite possible and even likely that he would not be the ruler before the occasion. The great qualities, the imperious will, the rapid energy, the eager nature fit for a great crisis are not required — are impediments — in common times. A Lord Liverpool is better in everyday politics than a Chatham; a Louis Philippe far better than a Napoleon. By the structure of the world we often want, at the sudden occurrence of a grave tempest, to change the helmsman, to replace the pilot of the calm by the pilot of the storm.

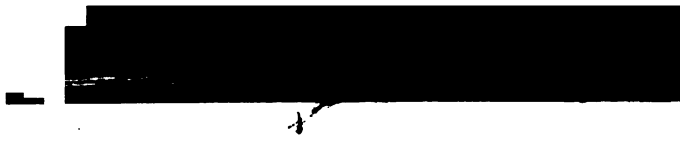
In England we have had so few catastrophes since our Constitution attained maturity that we can hardly appreciate this latent excellence. We have not needed a Cavour to rule a revolution — a representative man above all men fit for a great occasion, and by a natural, legal mode brought in to rule. But even in England, at what was the nearest to a great sudden crisis which we have had of late years, at the Crimean difficulty, we used this inherent power. We abolished the Aberdeen Cabinet, the ablest we have had, perhaps, since the Reform Act — a Cabinet not only adapted, but eminently adapted, for every sort of difficulty save the one it had to meet, which abounded in pacific discretion, and was wanting only in the "dæmonic element"; we chose a statesman who had the sort of merit then wanted, who, when he feels the steady power of England behind him, will advance without reluctance, and will strike without restraint. As was said at the time, "We turned out the Quaker, and put in the pugilist."

But under a presidential government you can do nothing of the kind. The American government calls itself a government of the supreme people; but at a quick crisis, the time when a sovereign power is most needed, you cannot find the supreme people. You have got a Congress elected for one fixed period, going out perhaps by fixed instalments, which cannot be accelerated or retarded; you

have a President chosen for a fixed period, and immovable during that period: all the arrangements are for stated times. There is no elastic element; everything is rigid, specified, dated. Come what may, you can quicken nothing and can retard nothing. You have bespoken your government in advance, and whether it suits you or not, whether it works well or works ill, whether it is what you want or not, by law you must keep it. In a country of complex foreign relations it would mostly happen that the first and most critical year of every war would be managed by a peace premier, and the first and most critical years of peace by a war premier. In each case the period of transition would be irrevocably governed by a man selected not for what he was to introduce, but what he was to change; for the policy he was to abandon, not for the policy he was to administer.

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## CHAPTER VI

### LABOR AND SOCIALISM IN ENGLISH POLITICS

THE general direction of the political movements and legislation in Great Britain during the last one hundred years has been determined by the interests and ideals of the three great economic classes: landlords, capitalists, and workingmen. The following article, written almost twenty years ago by Mr. Clarke, is a most suggestive and interesting commentary on the conflicts of these classes and the recent tendencies in legislation for social reform. As Mr. Clarke prophesies at the close, the labor party has grown in influence and numbers. Two new labor groups have been added to the Social Democratic Federation which he describes. The Independent Labor party was organized at Bradford in 1893 with a distinctive socialist programme. The Labor Representation Committee, supported by trades unionists, socialists, and labor sympathizers, was established in 1900. The latter organization is designed to promote the interests of the working-class and aims at securing the election of working-class representatives to Parliament. The result of this labor and socialist activity was the return of upwards of fifty socialist and labor representatives at the election held in 1906. Part of these representatives form a distinct group and promise to wield no little influence in the shaping of legislation. It remains to be seen whether this is a temporary revolt against special grievances concerning education and labor legislation, or whether it is the beginning of a compact labor party in some measure comparable to the socialist party in Germany.

## § 1. *Definition of the Term Socialism* [1]

Some years ago a well-known English politician and political economist is reported to have said that whatever might be the case in continental countries, socialism was impossible in England, and that any socialist propaganda there would prove a ridiculous fiasco. The remark seemed to suggest that insular habit of thought often attributed to Englishmen, which presupposes an insurmountable barrier between Great Britain and the Continent. But whether that was so or not, the remark was unfortunate in view of the very striking socialistic development which has since obtained in England. Probably no person equally well informed would venture to make a similar observation at the present time.

For good or evil the socialist movement has obtained something more than a foothold in England, while British legislation partakes more and more of the nature of quasi-socialist enactments. To so great an extent is this the case that an amiable and estimable peer, Lord Wemyss, recently called attention in the House of Lords to the spread of socialism, and charged both political parties with pandering to it in their legislation. The most eminent English thinker, Mr. Herbert Spencer, has also been moved to take up his parable against socialism in a little volume entitled *The Man versus the State.* And quite recently no less important a person than Sir William Harcourt exclaimed in the House of Commons, "We are all socialists now." No one supposes that Sir William Harcourt uses the term *socialist* in the same sense as Marx used it or as it is used by any socialist party in any civilized country. By socialism Marx meant the collective ownership of the instruments of production, while by the same term, Sir William Harcourt probably signifies the regulation by law of the relations between those who own these instruments and those who work on some fixed wage or pay a competition rent to the owners. And no doubt this distinction is real and important. But it remains to be seen whether such an admission of the doctrine of "ransom," as Professor Sidgwick has recently sanctioned in the *Contemporary Review*, or the regulation of rents by the State, as in Ireland under the Gladstone Land Act, will not ultimately tend to that further and more complete socialism which is advocated by the Collectivist

[1] Reprinted from the *Political Science Quarterly*, Vol. III, 1888 pp. 549 ff. By permission of Ginn & Company, Publishers.

# English Historians

he present paper proposes not so much to discuss this
question as to consider briefly the actual course of
olitical development and to elucidate the present con-
nings in Great Britain. Are Lord Wemyss, Mr. Spencer,
Villiam Harcourt correct in their diagnosis, or was the
ntioned political economist right in saying that socialism
ssible in England?

rd *socialism* has perhaps merited its claim to be one of
words of the modern world by reason of the different
ons which may be put upon it — just like the words
l *Christianity*, which are also used in the loosest possible
e word *socialist* is used here in its strictest economic
*socialist* is one who believes that the necessary instru-
oduction should be held and organized by the commu-
ad of by individuals or groups of individuals within or
that community. There may be infinite differences of
s to the way in which that result should be brought
ere may be an indefinite variety of connotations and
concerning the bearing of the new economic doctrine
n, marriage, the family, and so forth. The adoption of
may involve fundamental changes in the whole structure
ial life, but with all this for the time we have nothing to
The socialist, then, for my purpose, is one who would

real character of the struggle between Pitt and Napoleon has been largely lost sight of, owing to a cloud of vague phrases about patriotism, liberty, and religion. No doubt there came ultimately an issue between Napoleonic despotism and European liberty. But Pitt himself was under no illusions. He cared little or nothing for the picturesque corruptions and historical traditions which appealed to the imagination of Burke. Pitt started as a reformer, imbued with the doctrines of Adam Smith, and as a reformer he remained in intellect even while he was giving his immense talent to the service of reaction. In theories of commercial legislation he was far ahead of any contemporary statesman, and he believed all along in a reformed Parliament and in religious liberty. Pitt never backed up the continental coalition against France for the sake of "altar and throne." He had a much more tangible object in view, viz.: to secure for his country undisputed commercial supremacy. His aim was to complete the edifice begun by William III and the Whigs of 1688, and continued by Walpole and Chatham.

One of the chief meanings of 1688 was the transference of the government into the hands of the moneyed class. It was the period of the formation of the national debt and the Bank of England; and under Pitt the classes interested in the national debt and the Bank of England became supreme in the State. The boroughmongers and the rich Indian nabobs possessed themselves of Parliament, and the "old nobility" was swamped with successful contractors and wealthy fundholders. The capital controlled by this class was used by the ideal statesman of the class to secure the supremacy of the class. The policy of *laisser faire* was the special invention of that class.

At the same time a new class, that of the manufacturers, was rising into power. The inventions of Arkwright and Crompton date from the latter half of the eighteenth century, during which period England's great cotton manufacture grew to imposing proportions. Aided by the new machinery, by an abundant supply of minerals, by England's insular position, and by the genius of the people for industry, the manufacturing class became powerful, and those ugly places, the large industrial towns of England, began to grow to enormous size. The English manufacturers were originally protectionists, as witness Irish commercial legislation and the general colonial policy which they supported. But as soon as their position was secure, it was obvious that they would become free traders and advocates of *laisser faire*, and the subsequent

free-trade legislation of Peel marked perhaps the culmination of their power.

### § 3. *Laisser-faire Policy Challenged*

But the reign of *laisser faire* was soon challenged, and why? Because of the growth of machine industry, the consequent displacement of labor, and the new discomfort and dislocations which had arisen. The horrible cruelties of the early factory and mine system in England have been so fully laid bare by official documents that any attempt to tell over again the tale of horror is superfluous. The foundations of England's greatness were cemented by the blood of English working classes. But apart from the cruelty perpetrated, two other results connected themselves with the new era. The question of the unemployed arose as the direct result of machine industry, and the tendency of wages toward a minimum manifested itself in the absence of any organization on the part of the workers. Obviously *laisser faire* was an impossible policy; society simply could not hold together on any such basis. The attacks made upon machinery by starving weavers may have been foolish; but the weavers saw clearly that in some way or other the new machines had altered their position, had rendered life harder for the many, and employment more precarious. It was impossible to permit the new industrial relationship to be uncontrolled. Thus English statesmen abandoned *laisser faire*, not because of any abstract ideas about the functions of the State, but simply because they were compelled by the pressure of facts. The first of a long series of enactments for the protection of labor was passed in 1802; it was the beginning of the end of *laisser faire*.

But it is commonly assumed that the whole Liberal and Radical movement in England has been essentially a movement having for its watchwords liberty, absence of state regulation, freedom of contract. Is this so? What may be roughly termed the Liberal movement in England has its origin in three distinct schools: (1) There were those Whigs who adhered to Fox and who regarded with friendly eyes the proceedings of the French Revolutionists up till the time of the September massacres and who even after that date wished well to the French republic. This class was never large, and it was demoralized by the temporary withdrawal of Fox from Parliament. (2) There was next the small Benthamite School (to use a convenient phrase), of whom Price and Priestly were active apostles, whose doctrines were summed up

in Godwin's *Political Justice*, and whose Nestor was the venerable Jeremy Bentham. This school of political thought was clearly affiliated with that of the French *philosophes;* its members were ardent and zealous reformers, thoroughly imbued with the critical ideas of the eighteenth century, and believers in the "perfectability of the species." (3) There was also the popular school, which derived its main inspiration from Thomas Paine, and whose leaders and orators were Cobbett, Cartwright, and Hunt. This school was of the rough and ready order ; its members did not speculate very deeply, but they saw clearly the abuses under which the country was suffering, and they were honestly desirous of improving the condition of the people as well as vehemently opposed to the court, the aristocracy, and the Church. If any one man can be said to be the father of popular English radicalism, Thomas Paine is that man: his mark is upon it to-day. All these three schools went to the making up of the English progressive movement of the earlier part of the nineteenth century. Can it be said that a party thus composed was favorable to *laisser faire?*

The truth is that the movement was of a complex character, having diverse and even contradictory aims. Some of its leaders were mainly interested in getting rid of abuses, others in affirming new political ideas. Some wanted to make a bonfire of old statutes and abolish laws restricting freedom of speech, publication, and worship. The politics of Bentham and Godwin were certainly favorable to that creed of "administrative Nihilism" for which Mr. Spencer now stands sponsor. But the popular side of the movement was even then dominated by quite different aims and had a distinctly socialistic tinge: Cobbett inveighed against the fundholders and the debt; Thomas Spence of Newcastle published his able and interesting scheme of land nationalization; Robert Owen was preaching theoretic and practising actual socialism. It is a fundamental error to suppose that English radicalism was originally a new creed as to political machinery; it had a social doctrine however ill formulated. And with respect even to such a writer as Godwin, it must be remembered that his *Political Justice* was written before the effects of machine industry had become visible. Like the French declaration of the Rights of Man, it was not so much a prophecy of the new era as the summing up of the old; it represented the logical issue of a free individualism under simple economic conditions, rather than the necessary political results of the new system of collective industry.

The various groups were united so long as all were equally

opposed to Tory rule; but the Liberal reaction of 1830 and the compromising legislation which followed had the effect of breaking up this unity. The Whigs forgot their reforming zeal in the delights of office; literary Radicalism of the so-called philosophic order got into the hands of writers like James Mill, who had little else to offer but a series of negations, and the popular Radical movement merged into Chartism.

An adequate history of the Chartist movement has yet to be written. In every way it was, as Carlyle perceived, a movement of deep importance. While it put forward a distinctly political programme, it had undoubtedly ulterior social and economic aims. This may be gathered from a study of the speeches and writings connected with the movement, especially those of Ernest Jones and Bronterre O'Brien. It was the only genuine, earnest, serious, popular movement in England since the days of the Commonwealth. It was an absolutely English creation, due in no sense to foreign initiative, and it was environed by a quasi-socialistic atmosphere. Its authors desired to gain political power in order to improve the condition of English workingmen.

Had the working classes been enfranchised and had no competing programmes been set before them, Chartism would certainly have triumphed, and the subsequent course of English politics would have been widely different from what it has been. But neither of these conditions obtained. The working classes were not in possession of the suffrage, and a new factor came into the field in the shape of Cobdenism, or *Manchesterismus*, as the uncouth tongue of Germany has it.

### § 4. *The Triumph of Cobdenism*

I have said above, that, when they felt their ability to compete in the world's market with success, it was natural that the English manufacturers should be friendly to *laisser faire*. That they were so is shown in their support of Cobdenism. The movement directed with so much sagacity by Cobden was essentially a middle class, business-men's movement. Its triumph signified the supremacy of the manufacturer. Cobden himself as quoted in Mr. John Morley's biography (chapter xiii) asserted that his aim was to make the middle classes absolute masters of the State, and he temporarily succeeded in doing so. That Cobdenism should ever have been regarded as a "popular" movement, that free trade should ever have been supposed to be a "popular" vic-

tory, can only be attributed to one of those hallucinations which are stronger and more enduring in politics and religion than in any other departments of human affairs. It is certain that neither the aristocracy nor the working-class leaders so regarded it. The latter perceived that their Chartist movement was beaten by the free-trade, middle-class movement — a fact also noted by Emerson, who was sojourning in England at that time; and they have not recovered their position even to this day. The Cobdenite victory is easily explained. The Cobden School came to the front at a time when the old Whiggism was dying out. It had able men at its head, a simple programme of a highly practical character, and it was able to draw to an unlimited extent upon the immense revenues of the manufacturing class behind it. It appealed, moreover, to a middle-class electorate.

Thus armed Cobdenism stormed successfully the citadel of Liberalism and held it for a whole generation. It is this quite natural (but entirely misleading) identification of Cobdenism with the progressive movement in England which has induced people to suppose that English Radicalism means mere absence of restriction, or "administrative Nihilism." It means nothing of the sort. Cobdenism was an intruder in the line of legitimate succession, and we shall see directly that the Radicalism of to-day is taking up the thread of the Chartist movement. . . .

### § 5. *Growth of State Interference*

The purely middle-class régime came to an end (the year of Palmerston's death curiously coinciding with that of Cobden) and the period of proletarian pressure began, or rather, to be more strictly accurate, the pressure which had been felt to some extent from without now manifested itself within the political parties to a far greater degree. The security of the ballot was given to the working classes, legislation on social questions became much more frequent and advanced in its tendencies, and, above all, a state system of public education was adopted with the consent of both parties. The so-called Conservative reaction of 1874 was due in far greater degree to Liberal quarrels and divisions than to any new manifestation of genuine Conservatism. That there was really no reaction against state interference was proved by the acts of 1875 providing for artisans' dwellings and for the full recognition of trades unions, by the merchant shipping legislation of the same year, and by the extension and completion of the system of

compulsory education in 1876. The Disraeli administration accomplished very little in domestic legislation; but what it did accomplish was certainly in the direction of public intervention between capital and labor, nominally if not practically in the interests of labor.

This tendency toward quasi-socialistic legislation became much more manifest under the Gladstone administration of 1880, for two of the most important measures of the very first year of the new government were severe blows to the *laisser-faire* theory. These were the Irish Compensation for Disturbance Bill and the Employers' Liability Bill. The former measure, it is true, was lost through the action of the House of Lords; but this does not lessen its importance as an indication of the socialistic tendency of the Liberal legislation. During the Gladstone régime the functions of the post-office were greatly enlarged by the adoption of the parcels post system whereby private enterprise has been greatly checked. The electric lighting legislation and the claim asserted by the government over the telephones also mark the same drift towards collective control and ownership.

What are the functions, then, with which we find the British government invested at the present time at home and in its Indian dependency? The government has rendered popular education compulsory; it has truck acts to regulate payment of wages, mines-regulation acts, factory and workshops acts interfering at every point with the liberties of the capitalist, adulteration acts, and acts to compensate workmen for injuries due to their employers' neglect. The telegraphs have been acquired by the State, and the functions of the post-office have been so enlarged that besides sending and delivering letters, it now despatches telegrams and is a common carrier and banker on an enormous scale. The British State has now one hundred and fifty thousand persons in the direct service of the community in purely civil employments. The municipal bodies have also extended their functions. Municipalities now own public parks and gardens, museums and picture galleries, libraries, baths, wash-houses, technical schools, gas and water works, cattle markets, street railways, concert halls, piers, harbors, dispensaries, hospitals, and artisans' dwellings, and in many towns, as, for example, Glasgow and Edinburgh, the municipality is the owner of a vast area of house property. By recent legislation the municipalities are empowered to acquire land to be let by them as allotments to laborers and others. Moreover, under the British government,

localities can provide for themselves farms, irrigation works, bathing establishments, and can deal in guano, salt, opium, quinine, etc. The State in England at this moment provides for every one needing them, midwifery, nursery, education, board and lodging, vaccination, medicine, public worship, amusements, burials, and carriage of money and goods. All this, of course, means that the State, either in its national or municipal capacity, has been gradually absorbing what were private functions, and this under a restricted suffrage and despite the immense deadweight of individualism left behind by the Cobden School. England is indeed leaving the days of *laisser faire* far behind. . . .

### § 6. *Origin of the Socialist Movement*

The socialist movement in England is now (1888) about eight years old. In 1880 was founded a small body called the "Democratic Federation" which, in 1883, prefixed the word *social* to its title and became an avowedly socialist body. At the end of 1884 it experienced the inevitable fissure which sooner or later splits all bodies of advanced reformers in twain, and the "Socialist League" arose. A little prior to this a small number of educated socialists formed the Fabian Society, which differed from the other two bodies in that its members proposed to adopt the policy of Quinctus Fabius, dictator, *qui cunctando restituit rem*. These three bodies are very small; it is doubtful if their numbers amount to a couple of thousand all told, but there is no room for doubt as to the influence they have exerted and are exerting on active politicians and on a section of the workingmen. While there are few definite socialists in England, there is much unconscious socialism, especially in London; and this is due mainly to the very energetic propaganda carried on in workmen's clubs. Ten years ago individualistic secularism of a hard and unimaginative order reigned in these places; to-day they are pervaded by a more or less socialistic spirit. The change is so striking that none acquainted with these proletarian institutions can fail to recognize it. The working classes of England are not nearly so intelligent or impulsive as those of France, and therefore what socialism there is, is vaguer in England than in France and does not prompt to such decisive and logical action. But it is there, and it is beginning to affect the skilled workmen.

## § 7. *Political Tendencies of Trades Unionism*

the trades unions are on the whole somewhat conserva-
noteworthy that for the last five years the address from
t the annual congress has been of a more or less social-
acter, while the active socialistic campaign is largely
by skilled workmen, such as engineers and compositors.
gress held this year (1888) at Bradford, a resolution was
an overwhelming majority in favor of the nationaliza-
d; another resolution demanded direct labor represen-
Parliament; while a resolution favoring an eight hours'
ay would have been carried had it not been for certain
ons into which it is impossible to enter here. Thus we
e socialistic principle as against the let-alone principle
way rapidly among English skilled workers. That this
measure due to the socialist propaganda may be in-
n the fact that it follows almost immediately upon the
of an avowed socialist organization in England. This
ase of *post hoc, ergo propter hoc*. In England the func-
olutionary socialism seems to be similar to the func-
tarianism in religion; it has few positive adherents, but
very powerfully the political thought around it.

socialistic development of the country. These are specially four: (1) Large tracts of land going out of cultivation and the consequent perpetual decline in agricultural rent; (2) the rehousing of the great mass of the unskilled working classes; (3) the revelations as to the sweating system recently made before the special committee of the House of Lords; and (4) the question of the permanently unemployed. It is difficult to see how these questions are to be solved on individualistic lines. Even that optimist statistician, Mr. Giffen, after attempting to prove that the people are better off than they ever were, expresses his conviction that "something like a revolution" in the condition of the people is desirable. But such a revolution can be brought about only by the State, *i.e.* by the people in their corporate capacity. Individual effort cannot rebuild East London and house a million working people as they ought to be housed. Individual effort cannot prevent overtime work in government establishments, on railways, in street cars, and omnibuses, and so give occupation to the unemployed. Individual effort cannot take hold of and cultivate the land of England, nor can it prevent the ground landlord from absorbing his "unearned increment" out of the industry and enterprise of the people. It is perfectly obvious that all these problems will demand the aid of the State in their solution, and it is equally obvious that such state action will bring society a very long way on in the socialist direction.

### § 9. *Tendency of Political Programmes*

And now let us look for a moment to the attitude of the political parties with regard to the social problem and to their probable respective programmes, and we shall see, I think, that both parties, while repudiating socialism, yet advocate such measures as will lead on to socialism and can be logically defended on something like socialistic grounds. The Conservative party will rely in the main on schemes of state-assisted immigration, on protection, on the exclusion of foreign labor, and probably on some compulsory insurance scheme borrowed from the Bismarckian system. Although the Conservative leaders fight shy of protection, nearly every one of their followers is a protectionist at heart; and the recent sugar bounties convention is a sign that even the timid leaders of the party will go some way to gratify their followers. To the exclusion of foreign labor nearly every Conservative candidate in London and the large towns will be committed at the next election.

As for the immigration scheme, the people do not take very kindly to it, and all acute politicians will be careful not to commit themselves too far in that direction, and the same may be said of any state insurance scheme. But to these things in some form, the majority of Conservatives will adhere. And be it observed that each and all of these schemes involved collective action for the supposed benefit of the people. The State will do something that the masses may have work to do and bread to eat. In other words, it is the collective, the socialist, not the individualist, method which Conservatism will adopt.

Much more decidedly socialistic will be the radical programme. Radicals will not send the people out of the country at the public expense, but will supply public money to settle them on the land. They will propose to tax ground rents and mineral royalties with a view to their absorption by the community. They will municipalize land and nationalize railways. As soon as the organized working-class vote demands it, they will shorten the hours of labor and interfere further with the capitalist in the working of his business. And it is probable that, under the new and almost revolutionary extension of local self-government, they will start public works for the relief of the unemployed. It need not be pointed out that every one of these measures would involve a vast increase of collective authority and would be an immense step in the socialist direction.

The conclusion, then, to which the logic of facts drives any competent and well-informed investigator into English affairs is that in no country, probably, is progress being made more rapidly and more certainly in the socialist direction. When one compares the labor legislation of Great Britain, passed even under middle-class rule, with that of France or Belgium, one feels that the former country is in these matters half a century ahead of the two latter. It is so because the industrial development of England is half a century ahead of that of either France or Belgium, and the great lesson of politics is that legislation is determined by the social and economic conditions of the time. The economic development of Great Britain is further advanced than that of any other country, and therefore it is that Great Britain leads the world in socialist legislation. And if it be not a paradox to say so, it is that very socialistic legislation which prevents in England the wilder developments of revolutionary socialism with which the world is familiar in the case of France and Germany. It is rather the orderly evolutionary socialism of Rodbertus than the more revolutionary

socialism of Marx (identical as the doctrines of each may be at the bottom) which has a fair prospect of development in England.

### § 10. *Socialism and Local Autonomy*

One other matter needs to be dwelt upon. Englishmen are rightly supposed all the world over to be devoted to individual liberty, and the superficial student of socialism supposes that under it all individual liberty is lost and that every one is merely the agent of a huge central bureau. If this were the only kind of socialism possible, it might be freely admitted that it would have no chance in England. But he is blind to signs of the times who does not perceive that a vast movement of decentralization is going on in England. The Irish demand for home rule, the cries from Scotland and Wales for some reasonable autonomy, the concessions made even by a Conservative ministry in the local government bill, and the certain extension of that measure which the next Radical government will make — all these are indications that Great Britain is being prepared for a kind of socialism wholly different from the authoritative centralizing methods of Marx, socialism consistent with and in fact dependent on an energetic local life and compatible with all kinds of local form and coloring. If, for example, the land in England is made public property, it will not be through a great central rent-receiving machine at Whitehall, but rather through the localities, each of which will be as free as is consistent with the union of the whole. Some kind of centralizing there must indeed be; some kind of uniformity is inseparable from the modern industrial system so far as one can see. And there is no greater monotony or uniformity or absence of individual free play than in the modern factories with which industrial England is crowded. It may well be indeed that under some rational socialistic system individual liberty may actually extend in various important directions, even if it should be contracted in others.

The immediate political future is exceedingly problematical. It is a period of chaos and bewilderment. The old parties are undergoing vast changes, fundamental questions are being asked, and probably the next few years will exhibit rapid, shifting scenes of a kaleidoscopic character. During this time of change the labor party will, unless I am greatly mistaken, take form and develop itself, make and unmake ministries, and gradually acquire more and more control over the springs of government and the sources

of national power. The politicians will bid for the labor vote as they have bid for the Irish vote; indeed, it is the startling success of Mr. Parnell which has so profoundly influenced the leading workers and thinkers in the labor ranks. Mr. Parnell has made Parnellites of the Liberal party; we shall see the leaders of both parties before long anxious to do whatever the labor leaders may require.

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# PART IX

## THE EMPIRE IN THE NINETEENTH CENTURY

### CHAPTER I

#### THE ECONOMIC FOUNDATIONS OF IMPERIALISM

In every European country domestic politics is complicated by questions involved in securing new markets for manufactures and new areas for the profitable investment of capital. Though these great motives are supplemented by religious sentiments and by philosophic conceptions concerning the world's civilization, they are without doubt the great impelling forces in what is called "imperialism." The problem of how far domestic prosperity and true civilization are connected with the free outlet of these forces, and the military and naval support of mercantile operations, is one of the gravest and most important that has ever confronted Western nations. In Great Britain the opinion of statesmen and publicists has passed through many phases. For a time during the middle of the nineteenth century many of the leading thinkers were dominated by a belief that colonies would in time become independent States, and that additional imperial complications should not be undertaken. Since 1870, however, under the steady pressure of the forces mentioned above, the borders of the British empire have been steadily advanced, and there has been a strongly growing sentiment that the empire should be bound more and more closely together and that opportunities for new additions should not be allowed to escape. A very thorough analysis of the inner character of imperialism and its many problems is to be found in Mr. Hobson's *Imperialism: a Study*. It is not without its con-

troversial aspects, but it is one of the most stimulating books of our time on this very important subject.

### § 1. *The Economic Argument for Imperialism*[1]

No mere array of facts and figures adduced to illustrate the economic nature of the new imperialism will suffice to dispel the popular delusion that the use of national force to secure new markets by annexing fresh tracts of territory is a sound and necessary policy for an advanced industrial country like Great Britain. It has indeed been proved that recent annexations of tropical countries, procured at great expense, have furnished poor and precarious markets; that our aggregate trade with our colonial possessions is virtually stationary; and that our most profitable and progressive trade is with rival industrial nations, whose territories we have no desire to annex, whose markets we cannot force, and whose active antagonism we are provoking by our expansive policy.

But these arguments are not conclusive. It is open to imperialists to argue thus: "We must have markets for our growing manufactures; we must have new outlets for the investment of our surplus capital and for the energies of the adventurous surplus of our population: such expansion is a necessity of life to a nation with our great and growing powers of production. An ever larger share of our population is devoted to the manufactures and commerce of towns, and is thus dependent for life and work upon food and raw materials from foreign lands. In order to buy and pay for these things we must sell our goods abroad. During the first three-quarters of the century we could do so without difficulty by a natural expansion of commerce with continental nations and our colonies, all of which were far behind us in the main arts of manufacture and the carrying trades. So long as England held a virtual monopoly of the world markets for certain important classes of manufactured goods, imperialism was unnecessary. During the last thirty years this manufacturing and trading supremacy has been greatly impaired; other nations, especially Germany, the United States, and Belgium, have advanced with great rapidity, and while they have not crushed or even stayed the increase of our external trade, their competition is making it more and more difficult to dispose of the full surplus of our manufactures at a profit.

[1] Hobson, *Imperialism: a Study*, chap. vi. By permission of J. A. Hobson, Esq., and James Pott & Company, Publishers.

The encroachments made by these nations upon our old markets, even in our own possessions, make it most urgent that we should take energetic means to secure new markets. These new markets must lie in hitherto undeveloped countries, chiefly in the tropics, where vast populations live capable of growing economic needs which our manufacturers and merchants can supply. Our rivals are seizing and annexing territories for similar purposes, and when they have annexed them, close them to our trade. The diplomacy and the arms of Great Britain must be used in order to compel the owners of the new markets to deal with us; and experience shows that the safest means of securing and developing such markets is by establishing "protectorates" or by annexation. The present value of these markets must not be taken as a final test of the economy of such a policy; the process of educating civilized needs which we can supply is of necessity a gradual one, and the cost of such imperialism must be regarded as a capital outlay, the fruits of which posterity will reap. The new markets may not be large, but they form serviceable outlets for the overflow of our great textile and metal industries, and when the vast Asiatic and African populations of the interior are reached, a rapid expansion of trade may be expected to result.

"Far larger and more important is the pressure of capital for external fields of investment. Moreover, while the manufacturer and trader are well content to trade with foreign nations, the tendency for investors to work towards the political annexation of countries which contain their more speculative investments is very powerful. Of the fact of this pressure of capital there can be no question. Large savings are made which cannot find any profitable investment in this country; they must find employment elsewhere, and it is to the advantage of the nation that they should be employed as largely as possible in lands where they can be utilized in opening up markets for British trade and employment for British enterprise.

"However costly, however perilous, this process of imperial expansion may be, it is necessary to the continued existence and progress of our nation; if we abandon it, we must be content to leave the development of the world to other nations, who will everywhere cut into our trade, and even impair our means of securing the food and raw materials we require to support our population. Imperialism is thus seen to be, not a choice, but a necessity."

### § 2. *Economic Forces in American Imperialism*

The practical force of this economic argument in politics is strikingly illustrated by the recent history of the United States. Here is a country which suddenly breaks through a Conservative policy, strongly held by both political parties, bound up with every popular instinct and tradition, and flings itself into a rapid imperial career for which it possesses neither the material nor the moral equipment, risking the principles and practices of liberty and equality by the establishment of militarism and the forcible subjugation of peoples which it cannot safely admit to the condition of American citizenship.

Is this a mere wild freak of spread-eaglism, a burst of political ambition on the part of a nation coming to a sudden realization of its destiny? Not at all. The spirit of adventure, the American "mission of civilization," are, as forces making for imperialism, clearly subordinate to the driving force of the economic factor. The dramatic character of the change is due to the unprecedented rapidity of the industrial revolution in the United States during the last two decades. During that period the United States, with her unrivalled natural resources, her immense resources of skilled and unskilled labor, and her genius for invention and organization, has developed the best-equipped and most productive manufacturing economy the world has yet seen. Fostered by rigid protective tariffs, her metal, textile, tool, clothing, furniture, and other manufactures have shot up in a single generation from infancy to full maturity, and, having passed through a period of intense competition, are attaining, under the able control of great trust-makers, a power of production greater than has been attained in the most advanced industrial countries of Europe.

An era of cut-throat competition, followed by a rapid process of amalgamation, has thrown an enormous quantity of wealth into the hands of a small number of captains of industry. No luxury of living to which this class could attain kept pace with its rise of income, and a process of automatic saving set in upon an unprecedented scale. The investment of these savings in other industries helped to bring these under the same concentrative forces. Thus a great increase of savings seeking profitable investment is synchronous with a stricter economy of the use of existing capital. No doubt the rapid growth of a population, accustomed to a high and an always ascending standard of comfort, absorbs in the

satisfaction of its wants a large quantity of new capital. But the actual rate of saving, conjoined with a more economical application of forms of existing capital, has exceeded considerably the rise of the national consumption of manufactures. The power of production has far outstripped the actual rate of consumption, and, contrary to the older economic theory, has been unable to force a corresponding increase of consumption by lowering prices.

This is no mere theory. The history of any of the numerous trusts or combinations in the United States sets out the facts with complete distinctness. . . .

American manufactures are saturated with capital and can absorb no more. One after another they are seeking refuge from the waste of competition in "combines" which secure a measure of profitable peace by restricting the quantity of operative capital. Industrial and financial princes in oil, sugar, steel, railroads, banking, etc., are faced with the dilemma of either spending more than they know how to spend, or forcing markets outside the home area. Two economic courses are open to them, both leading towards an abandonment of the political isolation of the past and the adoption of imperialist methods in the future. Instead of shutting down inferior mills and rigidly restricting output to correspond with profitable sales in the home markets, they may employ their full productive power, applying their savings to increase their business capital, and, while still regulating output and prices for the home market, may "hustle" for foreign markets, dumping down their surplus goods at prices which would not be possible save for the profitable nature of their home market. So likewise they may employ their savings in seeking investments outside their country, first repaying the capital borrowed from Great Britain and other countries for the early development of their railroads, mines, and manufactures, and afterwards themselves becoming a creditor class to foreign countries.

It is this sudden demand for foreign markets for manufactures and for investments which is avowedly responsible for the adoption of imperialism as a political policy and practice by the Republican party to which the great industrial and financial chiefs belong, and which belongs to them. The adventurous enthusiasm of President Roosevelt and his "manifest destiny" and "mission of civilization" party must not deceive us. It is Messrs. Rockefeller, Pierpont Morgan, Hanna, Schwab, and their associates who need imperialism and who are fastening it upon the

of the great republic of the West. They need imperial-
se they desire to use the public resources of their country
rofitable employment for the capital which otherwise
superfluous.

t indeed necessary to own a country in order to do trade
to invest capital in it, and doubtless the United States
ome vent for their surplus goods and capital in European
But these countries are for the most part able to make
for themselves; most of them have erected tariffs against
uring imports, and even Great Britain is being urged
herself by reverting to protection. The big American
urers and financiers will be compelled to look to China
Pacific and to South America for their most profitable
protectionists by principle and practice, they will insist
ing as close a monopoly of these markets as they can se-
the competition of Germany, England, and other trad-
ns will drive them to the establishment of special political
with the markets they most prize. Cuba, the Philip-
d Hawaii are but the *hors d'œuvre* to whet an appetite
npler banquet. Moreover, the powerful hold upon poli-
these industrial and financial magnates possess, forms a
timulus, which, as we have shown, is operative in Great
nd elsewhere; the public expenditure in pursuit of an
career will be a separate immense source of profit to

sion upon the depression of trade in 1885 put the matter in a nutshell: "That, owing to the nature of the times, the demand for our commodities does not increase at the same rate as formerly; that our capacity for production is consequently in excess of our requirements, and could be considerably increased at short notice; that this is due partly to the competition of the capital which is being steadily accumulated in the country." The minority report straightly imputes the condition of affairs to "over-production." Germany is at the present suffering severely from what it called a glut of capital and of manufacturing power; she must have new markets; her consuls all over the world are "hustling" for trade; trading settlements are forced upon Asia Minor; in East and West Africa, in China, and elsewhere the German empire is impelled to a policy of colonization and protectorates as outlets for German commercial energy.

Every improvement of methods of production, every concentration of ownership and control, seems to accentuate the tendency. As one nation after another enters the machine economy and adopts advanced industrial methods, it becomes more difficult for its manufacturers, merchants, and financiers to dispose profitably of their economic resources, and they are tempted more and more to use their governments in order to secure for their particular use some distant undeveloped country by annexation and protection.

The process, we may be told, is inevitable, and so it seems upon a superficial inspection. Everywhere appear excessive powers of production, excessive capital in search of investment. It is admitted by all business men that the growth of the powers of production in their country exceeds the growth in consumption, that more goods can be produced than can be sold at a profit, and that more capital exists than can find remunerative investment.

It is this economic condition of affairs that forms the taproot of imperialism. If the consuming public in this country raised its standard of consumption to keep pace with every rise of productive powers, there could be no excess of goods or capital clamorous to use imperialism in order to find markets; foreign trade would indeed exist, but there would be no difficulty in exchanging a small surplus of our manufactures for the food and raw material we annually absorbed, and all the savings that we made could find employment, if we chose, in home industries.

There is nothing inherently irrational in such a supposition. Whatever is or can be produced, can be consumed, for a claim

upon it, as rent, profit, or wages, forms part of the real income of some member of the community, and he can consume it, or else exchange it for some other consumable with some one else who will consume it. With everything that is produced a consuming power is born. If, then, there are goods which cannot get consumed, or which cannot even get produced because it is evident they cannot get consumed, and if there is a quantity of capital and labor which cannot get full employment because its products cannot get consumed, the only possible explanation of this paradox is the refusal of owners of consuming power to apply that power in effective demand for commodities.

It is, of course, possible that an excess of producing power might exist in particular industries by misdirection, being engaged in certain manufactures, whereas it ought to have been engaged in agriculture or some other use. But no one can seriously contend that such misdirection explains the recurrent gluts and consequent depressions of modern industry, or that, when over-production is manifest in the leading manufactures, ample avenues are open for the surplus capital and labor in other industries. The general character of the excess of producing power is proved by the existence at such times of large bank stocks of idle money seeking any sort of profitable investment and finding none.

### § 4. *An Analysis of Over-production as the Basis of Imperialism*

The root questions underlying the phenomena are clearly these: "Why is it that consumption fails to keep pace automatically in a community with power of production?" "Why does under-consumption or over-saving occur?" For it is evident that the consuming power which, if exercised, would keep tense the reins of production, is in part withheld, or in other words is "saved" and stored up for investment. All saving for investment does not imply slackness of production; quite the contrary. Saving is economically justified, from the social standpoint, when the capital in which it takes material shape finds full employment in helping to produce commodities which, when produced, will be consumed. It is saving in excess of this amount that causes mischief, taking shape in surplus capital which is not needed to assist current consumption, and which either lies idle, or tries to oust existing capital from its employment, or else seeks speculative use abroad under the protection of the government.

But it may be asked: "Why should there be any tendency to

over-saving? Why should the owners of consuming power withhold a larger quantity for savings than can be serviceably employed?" Another way of putting the same question is this: "Why should not the pressure of present wants keep pace with every possibility of satisfying them?" The answer to these pertinent questions carries us to the broadest issue of the distribution of wealth. If a tendency to distribute income or consuming power according to needs were operative, it is evident that consumption would rise with every rise of producing power, for human needs are illimitable, and there could be no excess of saving. But it is quite otherwise in a state of economic society where distribution has no fixed relation to needs, but is determined by other conditions which assign to some people a consuming power vastly in excess of needs or possible uses, while others are destitute of consuming power enough to satisfy even the full demands of physical efficiency. The following illustration may serve to make the issue clear. "The volume of production has been constantly rising owing to the development of modern machinery. There are two main channels to carry off these products, — one channel carrying off the product destined to be consumed by the workers, and the other channel carrying off the remainder to the rich. The workers' channel is in rock-bound banks that cannot enlarge, owing to the competitive wage system preventing wages rising *pro rata* with increased efficiency. Wages are based upon cost of living, and not upon efficiency of labor. The miner in the poor mine gets the same wages per day as the miner in the adjoining rich mine. The owner of the rich mine gets the advantage, not his laborer. The channel which conveys the goods destined to supply the rich is itself divided into two streams. One stream carries off what the rich 'spend' on themselves for the necessities and luxuries of life. The other is simply an 'overflow' stream carrying off their 'savings.' The channel for spending, *i.e.* the amount wasted by the rich in luxuries, may broaden somewhat; but owing to the small number of those rich enough to indulge in whims it can never be greatly enlarged, and at any rate it bears such a small proportion to the other channel that in no event can much hope of avoiding a flood of capital be hoped for from this division. The rich will never be so ingenious as to spend enough to prevent over-production. The great safety overflow channel which has been constantly more and more widened and deepened to carry off the ever increasing flood of new capital is that division of the stream which carried the savings of the rich, and this is not

denly found to be incapable of further enlargement, but seems to be in the process of being dammed up."

gh this presentation over-accentuates the cleavage between poor, and over-states the weakness of the workers, it gives and sound expression to a most important and ill-recog- conomic truth. The "overflow" stream of savings is, se, fed not exclusively from the surplus income of the the professional and industrial middle classes, and to some xtent the workers, contribute. But the "flooding" is y due to the automatic saving of the surplus income of n. This is, of course, particularly true of America, where illionaires rise quickly and find themselves in possession es far exceeding the demands of any craving that is known To make the metaphor complete, the overflow stream represented as reëntering the stream of production and to empty there all the "savings" that it carries. Where ion remains free, the result is a chronic congestion of ve power and of production, forcing down home prices, large sums in advertising and pushing for orders, and ally causing a crisis followed by a collapse, during which s of capital and labor lie unemployed and unremunerated. me object of the trust or other combine is to remedy this nd loss by substituting regulation of output for reckless

power which prevents the absorption of commodities and capital within the country. The over-saving which is the economic root of imperialism is found by analysis to consist of rents, monopoly profits, and other unearned or excessive elements of income, which, not being earned by labor of head or hand, have no legitimate *raison d'être.* Having no natural relation to effort of production, they impel their recipients to no corresponding satisfaction of consumption; they form a surplus wealth which, having no place in the normal economy of production and consumption, tends to accumulate as excessive savings. Let any turn in the tide of politico-economic forces divert from these owners their excess of income and make it flow, either to the workers in higher wages or to the community in taxes, so that it will be spent instead of being saved, — serving in either of these ways to swell the tide of consumption, — there will be no need to fight for foreign markets or foreign areas of investment.

Many have carried their analysis so far as to realize the absurdity of spending half our financial resources in fighting to secure foreign markets at times when hungry mouths, ill-clad backs, ill-furnished houses, indicate countless unsatisfied material wants among our own population. If we may take the careful statistics of Mr. Rowntree for our guide, we shall be aware that more than one-fourth of the population of our towns is living at a standard which is below bare physical efficiency. If, by some economic readjustment, the products which flow from the surplus saving of the rich to swell the overflow streams could be diverted so as to raise the incomes and the standard of consumption of this inefficient fourth, there would be no need for pushful imperialism, and the cause of social reform would have won its greatest victory.

It is not inherent in the nature of things that we should spend our natural resources on militarism, war, and risky, unscrupulous diplomacy, in order to find markets for our goods and surplus capital. An intelligent progressive community, based upon substantial equality of educational and economic opportunities, will raise its standard of consumption to correspond with every increased power of production, and can find full employment for an unlimited quantity of capital and labor within the limits of the country which it occupies. Where the distribution of incomes is such as to enable all classes of the nation to convert their felt wants into an effective demand for commodities, there can be no over-production, no under-employment of capital and labor, and no necessity to fight for foreign markets.

ost convincing condemnation of the current economy
ed in the difficulty which producers everywhere experi-
nding consumers for their products — a fact attested by
gious growth of classes of agents and middlemen, the
ation of every sort of advertising, and the general in-
the distributive classes. Under a sound economy the
would be reversed; the growing wants of progressive
would be a constant stimulus to the inventive and opera-
gies of producers, and would form a constant strain upon
rs of production. The simultaneous excess of all the
production, attested by frequently recurring periods of
ression, is a most dramatic exhibition of the false econ-
istribution. It does not imply a mere miscalculation in
cation of productive power, or a brief temporary excess
ower; it manifests in an acute form an economic waste
chronic and general throughout the advanced industrial
a waste contained in the divorcement of the desire to con-
l the power to consume.

apportionment of income were such as to evoke no ex-
ving, full constant employment for capital and labor would
hed at home. This, of course, does not imply that there
no foreign trade. Goods that cannot be produced at
produced as well or as cheaply, would still be purchased

markets are capable of indefinite expansion. Whatever is produced in England can be consumed in England, provided that the "income," or power to demand commodities, is properly distributed. This only appears untrue because of the unnatural and unwholesome specialization to which this country has been subjected, based upon a bad distribution of economic resources, which has induced an overgrowth of certain manufacturing trades for the express purpose of effecting foreign sales. If the industrial revolution had taken place in an England founded upon an equal access by all classes to land, education, and legislation, specialization in manufactures would not have gone so far (though more intelligent progress would have been made, by reason of a widening of the area of selection of inventive and organizing talents); foreign trade would have been less important, though more steady; the standard of life for all portions of the population would have been high, and the present rate of national consumption would probably have given full, constant, remunerative employment to a far larger quantity of private and public capital than is now employed. For the over-saving or wider consumption that is traced to excessive incomes of the rich is a suicidal economy, even from the exclusive standpoint of capital; for consumption alone vitalizes capital and makes it capable of yielding profits. An economy that assigns to the "possessing" classes an excess of consuming power which they cannot use, and cannot convert into really serviceable capital, is a dog-in-the-manger policy. The social reforms which deprive the possessing classes of their surplus will not, therefore, inflict upon them the real injury they dread; they can only use this surplus by forcing on their country a wrecking policy of imperialism. The only safety of nations lies in removing the unearned increments of income from the possessing classes, and adding them to the wage income of the working classes or to the public income, in order that they may be spent in raising the standard of consumption.

Social reform bifurcates, according as reformers seek to achieve this end by raising wages or by increasing public taxation and expenditure. These courses are not essentially contradictory, but are rather complimentary. Working-class movements aim, either by private coöperation or by political pressure on legislative and administrative government, at increasing the proportion of the national income which accrues to labor in the form of wages, pensions, compensation for injuries, etc. State socialism aims at getting for the direct use of the whole society an increased share

of the "social values," which arise from the closely and essentially coöperative work of an industrial society, taxing property and incomes so as to draw into the public exchequer for public expenditure the "unearned elements" of income, leaving to individual producers those incomes which are necessary to induce them to apply in the best way their economic energies, and to private enterprises those businesses which do not breed monopoly, and which the public need not or cannot undertake. These are not, indeed, the sole or perhaps the best-avowed objects of social reform movements. But for the purposes of this analysis they form the kernel.

Trade unionism and socialism are thus the natural enemies of imperialism, for they take away from the "imperialist" classes the surplus incomes which form the economic stimulus of imperialism.

This does not pretend to be a final statement of the full relations of these forces. When we come to political analysis we shall perceive that the tendency of imperialism is to crush trade unionism and to "nibble" at or parasitically exploit state socialism. But, confining ourselves for the present to the narrowly economic setting, trade unionism and state socialism may be regarded as complementary forces arrayed against imperialism, in as far as, by diverting to working class or public expenditure elements of income, which would otherwise be surplus savings, they raise the general standard of home consumption and abate the pressure for foreign markets. Of course, if the increase of working-class income were wholly or chiefly "saved," not spent, or if the taxation of unearned incomes were utilized for the relief of other taxes borne by the possessing classes, no such result as we have described would follow. There is, however, no reason to anticipate this result from trade union or socialistic measures. Though no sufficient natural stimulus exists to force the well-to-do classes to spend in further luxuries the surplus incomes which they save, every working-class family is subject to powerful stimuli of economic needs, and a reasonably governed State would regard as its prime duty the relief of the present poverty of public life by new forms of socially useful expenditure.

But we are not here concerned with what belongs to the practical issues of political and economic policy. It is the economic theory for which we claim acceptance — a theory which, if accurate, dispels the delusion that expansion of foreign trade, and therefore of empire, is a necessity of national life.

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## CHAPTER II

### THE GREAT INDIAN MUTINY

THE contest between the British and the Indian princes for the decaying Moghul empire, which opened seriously at the battle of Plassey in 1757, continued steadily either in open war or by way of "peaceful penetration." As a result, by the middle of the nineteenth century the valleys of the Ganges and Indus rivers, the eastern and western coast lines and great regions in the heart of the peninsula had become immediate possessions of the British; the remainder of the body of the peninsula consisted of "protected States," also British for practical purposes; and only the northern regions towards China remained independent. While many of these States had been added peaceably, the great majority of them had been wrested from the natives by force. The germs of revolt were thus planted by the conquerors themselves, and in 1857 the great Mutiny broke out which marked a crisis in the history of British dominion in India and a new epoch in the government of that country.

### § 1. *Causes of the Mutiny*[1]

The various motives assigned for the Mutiny appear inadequate to the European mind. The truth seems to be that native opinion throughout India was in a ferment, predisposing men to believe the wildest stories and to rush into action in a paroxysm of terror. Panic acts on an Oriental population like drink upon a European mob. The annexation policy of Lord Dalhousie, although dictated by the most enlightened considerations, was distasteful to the native mind. The spread of education, the appearance at the

[1] Hunter, *A Brief History of the Indian Peoples*, chap. xv. By permission of the Delegates of the Clarendon Press, Oxford.

same moment of the steam engine and the telegraph wire, seemed to reveal a deep plan for substituting an English for an Indian civilization. The Bengal Sepoys especially thought that they could see farther than the rest of their countrymen. Most of them were Hindus of high caste; many of them were recruited from Oudh. They regarded our reforms on Western lines as attacks on their own nationality, and they knew at first hand what annexation meant. They believed it was by their prowess that the Punjab had been conquered, and that all India was held. The numerous dethroned princes, or their heirs and widows, were the first to learn and take advantage of this spirit of disaffection and panic. They had heard of the Crimean War, and were told that Russia was the perpetual enemy of England. Our munificent pensions had supplied the funds with which they could buy the aid of skilful intriguers.

On the other hand, the Company had not sufficiently opened up the higher posts in its service to natives of education, talent, or proved fidelity. It had taken important steps in this direction in respect to the lower grades of appointments. But the prizes of Indian official life, many of which are now thrown open to natives of India by the crown, were then the monopoly of a handful of Englishmen. Shortly before the Mutiny, Sir Henry Lawrence pointed out that even the army supplied no career to a native officer which could satisfy the reasonable ambition of an able man. He insisted on the serious dangers arising from this state of things; but his warnings were unheeded till too late. In the crisis of the Mutiny they were remembered. He was nominated provisional governor-general in event of any accident happening to Lord Canning; and the Queen's proclamation, on the transfer of the government from the Company to the crown at the end of the great struggle, affirmed the principle which he had so powerfully urged. "And it is our further will," are her Majesty's gracious words, "that so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified by their education, ability, and integrity duly to discharge." Under the Company this liberal policy was unknown. The Sepoy Mutiny of 1857, therefore, found many of the Indian princes, especially the dethroned dynasties, hostile to the Company; while a multitude of its own native officers were either actively disloyal or indifferent to its fate.

In this critical state of affairs, a rumor ran through the native

army that the cartridges served out to the Bengal regiments had been greased with the fat of pigs — animals which are unclean alike to Hindu and Muhammadan. No assurances could quiet the minds of the Sepoys. Indeed, the evidence shows that a disastrous blunder had in truth been made in this matter — a blunder which, although quickly remedied, was remedied too late. Fires occurred nightly in the native lines; officers were insulted by their men; confidence was gone, and only the form of discipline remained.

In addition, the outbreak of the storm found the native regiments denuded of many of their best officers. The administration of the great empire to which Dalhousie had put the cornerstone required a larger staff than the civil service could supply. The practice of selecting able military men for civil posts, which had long existed, received a sudden and vast development. Oudh, the Punjab, the Central Provinces, British Burma, were administered to a large extent by picked officers from the Company's regiments. Good and skilful commanders remained; but the native army had nevertheless been drained of many of its brightest intellects and firmest wills at the very crisis of its fate. At the same time the British troops in India had, in spite of Lord Dalhousie's remonstrances, been reduced far below the strength which the great governor-general declared to be essential to the safety of our rule. His earnest representations on this subject, and as to the urgent necessity for a reform alike of the native and the British armies of India, were lying disregarded in London when the panic about the "greased cartridges" spread through the native regiments, and the storm burst upon Bengal.

### § 2. *The Outbreak and Course of the Mutiny*

On the afternoon of Sunday, May 10, 1857, the Sepoys at Meerut (Mirath) broke into open mutiny. They forced open the jail, and rushed in a wild torrent through the cantonments, cutting down any European whom they met. They then streamed off to the neighboring city of Delhi, to stir up the native garrison and the criminal population of that great city, and to place themselves under the authority of the discrowned Mughal Emperor. Meerut was then the largest military station in Northern India, with a strong European garrison of foot, horse, and guns, sufficient to overwhelm the mutineers long before they could have reached Delhi. But as the Sepoys acted in irrational panic, so the British

officers, in but too many cases, behaved with equally irrational indecision. The news of the outbreak was telegraphed to Delhi, and nothing more was done at Meerut that night. At the moment when one strong will might have saved India, no soldier in authority at Meerut seemed able to think or act. The next morning the Muhammadans of Delhi arose, and all that the Europeans there could do was to blow up the magazine.

A rallying centre and a traditional name were thus given to the revolt, which forthwith spread like wildfire through the North-western Provinces and Oudh down into Lower Bengal. The same narrative must suffice for all the outbreaks, although each episode has its own story of sadness and devotion. The Sepoys rose on their officers, usually without warning, sometimes after protestations of fidelity — protestations in some cases perhaps true at the moment. The Europeans, or persons of Christian faith, were often massacred; occasionally, also, the women and children. The jail was broken open, the treasury plundered, and the mutineers marched off to some centre of revolt, to join in what had now become a national war. Only in the Punjab were the Sepoys anticipated by stern measures of repression and disarmament carried out by Sir John Lawrence and his lieutenants, among whom Edwards and Nicholson stand conspicuous. The Sikh population never wavered. Crowds of willing Muhammadan recruits joined us from the Afghan hills, and thus the Punjab, instead of being itself a source of danger, was able to furnish a portion of its own garrison for the siege of Delhi. In Lower Bengal most of the Sepoys mutinied, and then dispersed in different directions. The native armies of Madras and Bombay remained, on the whole, true to their colors. In Central India, the contingents of some of the great chiefs sooner or later threw in their lot with the rebels, but the Muhammadan State of Haidarabad was kept loyal by the authority of its able minister, Sir Salar Jang.

The main interest of the Sepoy War gathers round the three cities of Cawnpur, Lucknow, and Delhi. The cantonments at Cawnpur contained one of the great native garrisons of India. At Bithur, not far off, was the palace of Dundhu Panth, the heir of the last Peshwa, whose more familiar name of Nana Sahib will ever be handed down to infamy. At first the Nana was profuse in his professions of loyalty; but when the Sepoys mutinied at Cawnpur on the 6th June, he put himself at their head, and was proclaimed Peshwa of the Marathas. The Europeans at Cawnpur, numbering more women and children than fighting men, shut

themselves up in an ill-chosen hasty intrenchment, where they heroically bore a siege for nineteen days under the sun of a tropical June. Every one had courage and endurance to suffer or to die; but the directing mind was again absent. On the 27th June, trusting to a safe-conduct from the Nana, — a safe-conduct supposed to hold good as far as Allahabad, — they surrendered, and to the number of four hundred and fifty embarked in boats on the Ganges. A murderous fire was opened upon them from the river bank. Only a single boat escaped; and four men, who swam across to the protection of a friendly Raja, survived to tell the tale. The rest of the men were massacred on the spot. The women and children, numbering one hundred and twenty-five, were reserved for the same fate on the 15th July, when the avenging army of Havelock was at hand.

Sir Henry Lawrence, the chief commissioner of Oudh, had foreseen the storm. He fortified and provisioned the residency at Lucknow; and thither he retired, with all the European inhabitants and a weak British regiment, on the 2nd July. Two days later, he was mortally wounded by a shell. But the clear head was here in authority. Sir Henry Lawrence had deliberately chosen his position; and the little garrison held out, under unparalleled hardships and against enormous odds, until relieved by Havelock and Outram on the 25th of September. But the relieving force was itself invested by fresh swarms of rebels, and it was not till November that Sir Colin Campbell (afterwards Lord Clyde) cut his way into Lucknow and effected the final deliverance of the garrison (16th November, 1857). Our troops then withdrew to more urgent work, and did not permanently re-occupy Lucknow till March, 1858.

The siege of Delhi began on the 8th June, a month after the original outbreak at Meerut. Siege in the proper sense of the word it was not; for our army, encamped on the historic "ridge" of Delhi, never exceeded eight thousand men, while the rebels within the walls were more than thirty thousand strong. In the middle of August, Nicholson arrived with a reënforcement from the Punjab; his own inspiring presence was perhaps even more valuable than the reënforcement he brought. On the 14th September the assault was delivered; and, after six days' desperate fighting in the streets, Delhi was again won. Nicholson fell heroically at the head of the storming party. Hodson, the daring but unscrupulous leader of a corps of irregular horse, hunted down next day the old Mughal Emperor, Bahádur

Shâh, and his sons. The Emperor was afterwards sent a state prisoner to Rangoon, where he lived till 1862. As the mob pressed in on the guard around the Emperor's sons, near Delhi, Hodson thought it necessary to shoot down the princes (who had been captured unconditionally) with his own hand.

After the fall of Delhi and the final relief of Lucknow, the war loses its dramatic interest, although fighting still went on in various parts of the country for about eighteen months. The population of Oudh and Rohilkhand, stimulated by the presence of the Begam of Oudh, the Nawáb of Bareilly, and Náná Sáhib himself, had joined the mutinous Sepoys *en masse*. In this quarter of India alone it was the revolt of a people rather than the mutiny of an army that had to be quelled. Sir Colin Campbell conducted the campaign in Oudh, which lasted through two cold seasons. Valuable assistance was lent by Sir Jang Bahadur of Nepal, at the head of his gallant Gurkhas. Town after town was occupied, fort after fort was stormed, until the last gun had been recaptured, and the last fugitive had been chased across the frontier by January, 1859. . . .

### § 3. *Settlement in India at the Close of the Mutiny*

The Mutiny sealed the fate of the East India Company, after a life of more than two and a half centuries. The original Company received its charter of incorporation from Elizabeth in 1600. Its political powers and the Constitution of the Indian government were derived from the Regulating Act of 1773, passed by the ministry of Lord North. By that statute the governor of Bengal was raised to the rank of governor-general; and, in conjunction with his council of four members, he was intrusted with the duty of controlling the governments of Madras and Bombay, so far as regarded questions of peace and war; a supreme court of judicature was appointed at Calcutta, to which the judges were nominated by the crown; and a power of making rules and regulations was conferred upon the governor-general and his council. Next came the India Bill of Pitt (1784), which founded the board of control in England, strengthened the supremacy of Bengal over the other presidencies, and first authorized the historic phrase, "governor-general-in-council."

The renewed charter of 1813 abolished the Company's monopoly of Indian trade and compelled it to direct its energies to the good government of the people. The Act of 1833, at the next renewal

of the Company's charter for another twenty years, did away with its remaining trade to China. It also introduced successive reforms into the Constitution of the Indian government. It added to the council a new (legal) member, who need not be chosen from among the Company's servants, and who was at first entitled to be present only at the meetings for making laws and regulations; it accorded the authority of acts of Parliament to the laws and regulations so made, subject to the disallowance of the court of directors; it appointed a law commission; and it finally gave to the governor-general-in-council a control over the other presidencies, in all points relating to the civil or military administration. The charter of the Company was renewed for the last time in 1853, not for a definite period of years, but only for so long as Parliament should see fit. On this occasion the number of directors was reduced, and their patronage as regards appointments to the civil service was taken away, to make room for the principle of open competition.

The Act for the Better Government of India (1858), which finally transferred the administration from the Company to the crown, was not passed without an eloquent protest from the directors, nor without bitter party discussions in Parliament. It enacted that India shall be governed by, and in the name of, the Queen of England through one of her principal secretaries of state, assisted by a council of fifteen members. The governor-general received the new title of viceroy. The European troops of the company, numbering about 24,000 officers and men, were amalgamated with the royal service, and the Indian navy was abolished. By the Indian Councils Act (1861) the governor-general's council, and also the councils at Madras and Bombay, were augmented by the addition of non-official members, either natives or Europeans, for legislative purposes only; and, by another act passed in the same year, high courts of judicature were constituted out of the old supreme courts at the presidency towns.



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## CHAPTER III

### THE AUSTRALIAN CONSTITUTION

In the constitutions of the various English-speaking colonies, which form a part of the British empire, one has an excellent opportunity to study the forms of government which Englishmen work out when free from the trammels of the historical traditions and economic conditions of the mother country. Feudal aristocracy, which originated largely in conquest and confiscation, as De Tocqueville long ago pointed out, has had no opportunity to reproduce itself in the colonies of modern times. As a result, that feature of the British Constitution is absent in the colonies as in the United States. The most interesting, perhaps, of all the constitutions formed under these new conditions is that which recently federated the Australian States into a Commonwealth. It is doubly interesting on account of the various problems of social reform and control which the Australian colonies are working out individually, and will doubtless continue to work out on a larger scale under the new Constitution. Fortunately we have from the pen of Mr. Bryce, whose book on the American Commonwealth has laid all Americans under a great debt, a brief description of the newly erected government.

### § 1. *The Land and People of Australia* [1]

Before examining the provisions of the Constitution which is bringing the hitherto independent colonies into one political body, it is well to consider for a moment the territory and the inhabitants that are to be thus united.

[1] Bryce, *Studies in History and Jurisprudence*, pp. 403 ff. By permission of the American Branch of the Oxford Press.

The total area of Australia is nearly 3,000,000 square miles, not much less than that of Europe. Of this a comparatively small part is peopled by white men; for the interior, as well as vast tracts stretching inland from the southwestern and northwestern coasts, is almost rainless, and supplies, even in its better districts, nothing more than a scanty growth of shrubs. Much of it is lower than the regions towards the coast, and parts are but little above sea-level. It has been hitherto deemed incapable of supporting human settlement, and unfit even for such ranching as is practised on arid tracts in Western North America and in South Africa. Modern science has brought so many unexpected things to pass, that this conclusion may prove to have been too hasty. Still no growth of population in the interior can be looked for corresponding to that which marked the development of the United States west of the Alleghanies in the beginning of the nineteenth century.

Of the six Australian colonies, one, Tasmania, occupies an island of its own, fertile and beautiful, but rather smaller (26,000 square miles) than Scotland or South Carolina. It lies 150 miles from the coast of Victoria. Western Australia covers an enormous area (nearly 1,000,000 square miles, between three and four times the size of Texas), and South Australia, which stretches right across the continent to the Gulf of Carpentaria, is almost as large (a little over 900,000 square miles). Queensland is smaller, with 668,000 square miles; New South Wales, on the other hand, has only 310,000 square miles (*i.e.* is rather larger than Norway and Sweden, and about the size of California, Oregon, and Washington put together); Victoria only 87,000 (*i.e.* is as large as Great Britain and a little larger than Idaho). The country (including Tasmania) stretches from north to south over 32° of latitude (11° S. to 43° S.), a wider range than that of the United States (lat. 49° N. to 26° N.). There are thus even greater contrasts of climate than in the last-named country, for though the Tasmanian winters are less cold than those of Montana, the tropical heats of North Queensland and the shores of the Gulf of Carpentaria exceed any temperature reached in Louisiana and Texas. Fortunately, Northern Australia is, for its latitude, comparatively free from malarial fevers. But it is too hot for the out-door labor of white men. In these marked physical differences between the extremities of the continent there lie sources whence may spring divergences not only of material interests, but ultimately even of character, — divergences comparable to those which made the Gulf States of the American Union

find themselves drawn apart from the States of the North Atlantic and Great Lakes.

It must also be noted that the great central wilderness cuts off not only the tropical north and northwest, but also the more temperate parts of the west from the thickly peopled regions of the southwest. Western Australia communicates with her Eastern sisters only by a long sea voyage. She is almost in the position held by California when, before the making of the first transcontinental railway, people went from New York to San Francisco via Panama: Nor is there much prospect that settlements will arise here and there in the intervening desert.

The population of the continent, which has now reached nearly 4,000,000, is very unequally distributed. The three colonies of widest area, Western Australia, South Australia, and Queensland, have none of them 500,000 inhabitants. Tasmania has about 170,000. Two others, New South Wales and Victoria, have each more than 1,000,000. This disparity ranges them for political purposes into two groups, — the large ones with 2,500,000 people in two colonies, and the small ones with 1,500,000 in four colonies.

Against these two sets of differences, physical and social, which might be expected to induce an opposition of economic and political interests, there is to be placed the fact that the Australian colonies are singularly homogeneous in population. British North America is peopled by a French as well as by an English race, British South Africa by a Dutch race as well as an English. But Australia is purely British. Even the Irish and the Scotch, though both races are specially prone to emigrate, seem less conspicuous than they are in Canada. Australia is to-day almost as purely English as Massachusetts, Connecticut, and Virginia were in 1776, and probably more English than were the thirteen original States taken as a whole. In this fact the colonies found not only an inducement to a closer union, but a security against the occurrence of one of the dangers which most frequently threatens the internal concord of a federation. Race antagonisms have troubled not only Canada and South Africa, but the United Kingdom itself, and they now constitute the gravest of the perils that surround the Austro-Hungarian monarchy.

Among the other favoring conditions may be enumerated the use of one language only (whereas in Canada and South Africa two are spoken), the existence of one system of law, the experience of the same form of political institutions, a form modelled on that which the venerable traditions of the mother country have endeared

to Englishmen in all parts of the world. It has also been a piece of good fortune that religion has not interposed any grounds for jealousy or division. The population of Australia is divided among various Christian denominations very much as the population of England is, and the chief difference between the old and the new country lies in the greater friendliness to one another of various communions which exists in the new country, a happy result due partly to the absence of any state establishment of religion, and partly to that sense of social equality which is strong enough to condemn any attempt on the part of one religious body to claim social superiority over the others.

Finally, there is the unique position which Australia occupies. She has a perfect natural frontier, because she is surrounded by the sea, an island continent, so far removed from all other civilized nations that she is not likely to be either threatened by their attacks or entangled in their alliances. The United States had, when its career began, British possessions on the north, French and Spanish on the south. But the tropical islands which Holland, Germany, and France claim as theirs, to the north and east of the Australian coasts, are cut off by a wide stretch of ocean. They are not now, and are not likely at any time we can foresee, to contain a white population capable of disturbing the repose of Australia. Such a country seems made for one nation, though the fact that its settled regions lie scattered round a vast central wilderness suggests that it is better fitted for a federation than for a government of the unified type. But, on the other hand, this very remoteness might, in removing the force of external pressure, have weakened the sense of need for a federal union had there not existed that homogeneity of race and that aspiring national sentiment to which I have adverted.

Compare these conditions with those of the three other federations. The thirteen other colonies which have grown into the present forty-five States of the American Union lay continuous with one another along the coast of the Atlantic. England held Canada to the north of them, France held the Mississippi Valley to the west of them, and, still farther to the west, Spain held the coasts of the Pacific. They had at that time no natural boundaries on land; and the forces that drew them together were local contiguity, race unity, and above all the sense that they must combine to protect themselves against powerful neighbors as well as against the evils which had become so painfully evident in the governments of the several States. Nature prescribed union, though few dreamt

that Nature meant that union to cover the whole central belt of a continent. In the case of Canada, Nature spoke with a more doubtful voice. She might rather have appeared to suggest that this long and narrow strip of habitable but only partially inhabited land, stretching from the Gulf of St. Lawrence to Puget Sound, should either all of it unite with its mighty neighbor to the south, or should form three or four separate groups, separated by intervening wildernesses. Political feelings, however, compounded of attachment to Britain and a proud resolve not to be merged in a rival power which had done nothing to conciliate them, led the Canadians to form a confederation of their own, which Nature has blessed in this point at least, that its territories are so similar in climate and in conditions for industrial growth that few economic antagonisms seem likely to arise among them. Switzerland, however, is the most remarkable case of a federation formed by historical causes in the very teeth, as it might seem, of ethnological obstacles. Three races, speaking three languages, have been so squeezed together by formidable neighbors as to have grown into one. The help of Nature has however been given in providing them with mountain fastnesses from which the armies of those neighbors could be resisted; and the physical character of the country has joined with the traditions of a splendid warlike heroism in creating a patriotism perhaps more intense than any other in the modern world.

### § 2. *Position of the States in the Australian Federation*

The Australian Constitution, like that of the United States, assumes the States to be already organized communities, and contains nothing regarding their constitutions. The case of Canada was different, because there the previous government of the Upper and Lower Provinces, which had been one, had to be cut in two, and arrangements made for duly constituting the two halves. But in the case of Australia, the preëxisting constitutions of the colonies, granted by the imperial government at various times, go on unchanged, subject only to the supersession of some of their functions by the Commonwealth, and to one or two specifically mentioned restrictions. That these restrictions are comparatively few may be partly ascribed to that aversion which the English everywhere show to this kind of safeguard against the misuse of legislature power. The omnipotence of the British Parliament seems to have fostered the notion that all Parliaments

ought to be free to do wrong as well as to do right. The only things from which a State is disabled are the keeping of a naval or military force (except with the consent of the commonwealth Parliament), coining money, and making anything but gold and silver coin legal tender. A State is not, as are the American States, forbidden to grant titles of nobility, or to pass any *ex post facto* law or law "impairing the obligation of contracts." That no such prohibitions exist in Canada may be ascribed to the fact that in Canada the national or Dominion government has the right of vetoing laws passed by provincial legislatures, so that improper legislation can be in this way checked. The power is not often exercised in Canada, but when exercised has sometimes led to friction. This plan, however, is neither so respectful to the Provinces nor so conformable to general principles as is the American plan, which leaves the States subject only to the restrictions imposed by the Constitution — restrictions which *ipso iure* annul a law attempting to transgress them. And the Australians have wisely followed the American rather than the Canadian precedent. The Australians have, to be sure, in reserve a power to which nothing similar exists in America, viz., the right of the British crown at home to veto legislation. Rarely as this right is put in force it might conceivably be used at the instance of the national government to avert an undesirable conflict between state statutes and national statutes. Note further that each Australian State is left as free to amend its own Constitution as it was before, subject of course to the veto of the British crown, but to no interference by the Commonwealth; whereas in Canada acts of the provincial legislatures amending their constitutions are subject to the veto of the Dominion government as representing the crown.

The omission of any provision similar to the famous and much litigated clause which debars an American state legislature from passing any law impairing the obligation of contracts is especially noteworthy. That clause, introduced by the Philadelphia Convention in order to check the tendency of some reckless States to get rid of their debts, produced in course of time unexpectedly far-reaching results, from some of which American legislatures and courts have made ingenious attempts to escape. It has indeed been thought that several subsequent decisions of the supreme court are not easily reconcilable with the famous judgment in the Dartmouth College Case (A.D. 1818), in which the full effect of this clause was for the first time displayed. That effect has been to fetter legislation in ways which are found so inconvenient in

practice that they are acquiesced in only because many state legislatures are in the United States objects of popular distrust. No corresponding distrust seems to be felt in the British colonies, and therefore the Australians have not deemed any such prohibition needful, following the example of the British House of Commons, which in 1893 rejected a similar clause when moved as an amendment to the Irish Home Rule Bill of that year.

In another point the Australian States have been treated with respect. In each of them the nominal executive head has hitherto been a governor appointed by the British crown. This was the case in Canada prior to 1867; but when the Canadian federation was formed, the appointment of the governors of the several provinces was intrusted to the governor-general of the Dominion, that is to say, to the Dominion Cabinet by whose advice the governor-general, being a sort of constitutional monarch, is guided. In practice, therefore, these governorships have become rewards bestowed upon leading party politicians. The Australians wisely (as most Englishmen will think) avoided this plan. Neither did they adopt the American method of letting the people of each State elect the governor, a method unsuited to government on the Cabinet system, because, as the state governor is under that system only a nominal head of the executive (the Cabinet being the real executive), there was no good reason for setting the people to choose him, and good reasons against doing so, inasmuch as popular elections are invariably fought on party lines. Accordingly the Australians have preferred to let him continue to be appointed by the home government, and to allow him to communicate directly with the colonial office in London. His ministers are indeed described in the Constitution (sect. 44) as being "the Queen's ministers."

Four other remarkable divergences, from both the American and the Canadian federal systems, remain to be mentioned.

One relates to the judiciary. In the United States there is a complete system of federal courts ramifying all over the Union and exercising exclusive jurisdiction in all cases arising under federal statutes, as well as in a number of other matters specified in Art. III, sect. 2 of the Constitution. But the State courts remain quite independent in all State matters, and determine the interpretation of the State constitutions and of all State statutes, nor does any appeal lie from them to the federal courts. In Canada this was not thought necessary, so there the same set of courts deal with all questions arising under federal statutes and with

those arising under provincial statutes, and the supreme court of Canada receives appeals from all other courts. This is less conformable to theory than the United States plan, but does not seem to have worked ill. The danger that courts sitting in the Provinces would, under the influence of local feeling, pervert federal law, was not serious in Canada (though a similar danger was feared in the United States in 1787), and indeed all the Canadian judges are appointed by the dominion government, a further illustration of the preponderance which the nation has over the Provinces. The Australians have taken a middle course. They have established a federal supreme court, to be called "the high court of Australia," and have taken power for their Parliament to create other federal courts. So far, they follow the United States precedent. But they have given power to the commonwealth Parliament to invest state courts with federal jurisdiction, thereby allowing those courts to be, as in Canada, both state and federal. And they have also allowed an appeal from all state courts to the federal high court. By this plan the States are more directly connected with and subordinate to the national government than they are in the United States. The Australian scheme has one great incidental advantage. In the United States the law of different States may and does differ, not only in respect of the difference between the statutes of one and the statutes of another, but also in respect of questions of common law untouched by statutes. The supreme court of Massachusetts may, for instance, take a different view of what constitutes fraud at common law from that taken by the supreme court of Pennsylvania, and there is no court of appeal above these courts to bring their views into accord. This has not happened to any great extent in Australia, because the British Privy Council has entertained appeals from all its courts, and it will happen still less in future, because the federal high court will be close at hand to settle questions on which the courts of different States may have been in discord.

A second point shows how much less powerful the sentiment of state sovereignty has been in Australia than it was in the United States. By an amendment (XI) to the American Constitution made in 1798 it is expressly declared that no State can be sued by a private plaintiff. But Australia expressly grants jurisdiction in such cases to its federal high court (sect. 75).

A third point is the curious and novel power given to a State of referring matters to the commonwealth Parliament, and to that Parliament of thereupon legislating on such matters (sect. 51,

XXXVII). Under this provision (which is not to be found in the Canadian Constitution) there is no department of state law wherewith the national legislature may not be rendered competent to deal. It may be usefully employed to secure uniformity of legislation over all Australia on a number of subjects not within the specifically allotted field of the commonwealth Parliament.

Finally, the commonwealth Parliament may grant financial assistance to any State, and may take over the whole or a part of its debts as existing at the establishment of the Commonwealth. Provisions such as these imply, or will involve if put in practice, a relation between the national government and the States closer than that which exists in America.

To complete this account of the relation of the nation to the States, let it be noted that the State may surrender any part of its territory to the Commonwealth, and that the Commonwealth is bound to protect each State against invasion or, on the application of the executive of the State, against domestic violence. This latter provision is drawn from the United States Constitution, though in America it is from the state legislature, if then in session, that the application for protection ought to come. Australia is right in her variation, because in her States the legislature acts through the executive. Neither provision occurs in the Constitution of Canada, which assigns military and naval defence exclusively to the Dominion government, and makes itself responsible for the maintenance of order everywhere. In Switzerland the management of the army, in which all citizens are bound to serve, is divided between cantons and confederation, the supreme control remaining with the latter (Artt. 18–22). The confederation is bound to protect a canton against invasion and disorders, and may even itself intervene if the executive of the canton cannot ask it on its own motion (Artt. 16 and 17). Australia, as we have seen, allows the States to maintain a force with the consent of the Commonwealth; and this is permitted by the American Constitution also.

### § 3. *The Legislature in the Australian Commonwealth*

We may now pass on to consider the national government, the construction whereof occupies by far the greater part of the Constitution, which, while it left the States pretty much as they were, had here to build up a new system from the ground.

The first point to be examined relates to the limitations imposed

on the national government as against the citizens generally, since I have already dealt with the limitations on its powers as against the States. Here a remarkable divergence from the American Constitution is disclosed. When that instrument was enacted, the keenest suspicion and jealousy was felt of the action of the government to be established under it. It was feared that Congress might become an illiberal oligarchy and the President a new George III. Accordingly great pains were taken to debar Congress from doing anything which could infringe the primordial human rights of the citizen. Some restrictions are contained in the original Constitution; others fill the first nine amendments which were passed two or three years later, as a part of the arrangements by which the acceptance of the Constitution was secured. And down till our own time every state constitution in America has continued to contain a similar "Bill of Rights" for the protection of the citizens against abuse of legislative power. The English, however, have completely forgotten these old suspicions which, when they did exist, attached to the crown and not to the legislature. So when Englishmen in Canada or Australia enact new constitutions, they take no heed of such matters, and make their legislature as like the omnipotent Parliament of Britain as they can. The Canadian Constitution leaves the dominion Parliament unfettered save by the direction (sect. 54) that money shall not be appropriated to any purpose that has not been recommended to the House of Commons by the executive, a direction embodying English practice, and now adopted by Australia also. And the Australian Constitution contains but one provision which recalls the old-fashioned Bill of Rights, viz., that which forbids the Commonwealth to "make any law for establishing any religion or for imposing any religious observance or for prohibiting the free exercise of any religion." The Swiss Constitution, influenced by French and American models, is in this respect more archaic, for it imposes a series of disabilities on its legislature in the interest of individual freedom (sectt. 39, 49, 54–59). This diversity of attitude between the English on the one hand and both the Americans and the Swiss on the other is a curious instance of the way in which usage and tradition mould a nation's mind. Parliament was for so long a time the protector of Englishmen against an arbitrary executive that they did not form the habit of taking precautions against the abuse of the powers of the legislature; and their struggles for a fuller freedom took the form of making Parliament a more truly popular and representative body, not that of restricting its authority.

The point just examined is one which arises in all rigid constitutions, whether federal or unitary. But the next point is one with which only federations are concerned; and it is one in which all the great federations agree. All have adopted the same method of providing both for the predominance of the majority of the people considered as one nation, and for the maintenance of the rights of the States considered as distinct communities. The Americans invented this method; the Swiss, the Canadians, the Germans, and now the Australians have imitated them. This method is to divide the legislature into two houses, using one to represent the whole people on the basis of numbers, and using the other to represent the several States on the basis (except in Germany) of their equality as autonomous communities. It was this device that made federation possible in the United States, for the smaller States would not have foregone their independence in reliance upon any weaker guarantee.

The Australian scheme provides (sectt. 7–23) for an Upper House or Senate of thirty-six members, six from each State, and a House of Representatives (sectt. 24–40) of seventy-five members, elected on a basis of population, so that forty-nine members will come from the two large States, New South Wales and Victoria,—and twenty-six from the four small States. No original State is ever to have less than five.

The equal representation of the six original States is always to be maintained, but the number of senators may be increased, and when new States come to be formed, the Parliament may allot to them such number of senators as it thinks fit. Senators sit for six years, and do not all retire at the same time. These features are taken from the Constitution of the United States, which, as already observed, has been a model for subsequent federal upper houses. But there are remarkable variations in the Australian scheme.

1. In the United States each newly created State receives as a matter of right its two senators. In Australia the Commonwealth may allot such number as it thinks fit.

2. In the United States one-third of the Senate retires every two years. In Australia one-half retires every three years.

3. In the United States the president of the Senate is the Vice-President of the United States, chosen by the people. In Australia, the Senate is to choose its own President.

4. In the United States the quorum is one more than a half of the total number; in Australia one-third of the total number.

5. In the United States the legislatures of the several States elect the senators. In Australia the senators are elected by the people of the State.

This last point is one of great interest. Tocqueville, writing in 1832, attributed (erroneously, as the sequel has shown) the excellence of the American Senate to the method of election by the state legislatures. Since his days the American Senate has declined, and so far from this mode of election having tended to sustain its character, the general, though not unanimous, opinion of the wise in America deems the Senate to be injured by it, and desires a change to the method of election by direct popular vote. It was partly because the Australian convention had become aware of this tendency of American opinion that they rejected the existing American plan; nor is it impossible that the Americans themselves may alter their system, which gives greater opportunities for intrigue and the use of money than popular election would be likely to afford. In Australia, the senators are in the first instance to be elected by the people, each State voting as one electorate, but this may be altered (*e.g.* to a system of district elections) by the Parliament of the Commonwealth, or failing its action, by the Parliament of a State. It will be interesting to see what experiments are tried and how they work. District voting may give different results from a general state vote, and a party for the moment dominant may choose the plan that best suits it.

6. In the United States the Senate is an undying body, perpetually renewed by fresh elections, never losing more than one-third of its members at any one time. In Australia the Senate may be dissolved in case a deadlock should arise between it and the House of Representatives.

The Senate is the sheet-anchor of the four small States. Commanding a majority in it, they have consented to acquiesce in the great preponderance which their two larger neighbors possess in the House of Representatives. The numbers of the latter House are to be always as nearly as practicable double those of the Senate, a point whose importance will presently appear.

The House is to continue for three years (subject, of course, to dissolution), a term intermediate, though inclining in the democratic direction, between the two years of the American Congress and the seven (practically six) years of the British House of Commons. The Canadian term is five years. Until the commonwealth Parliament otherwise provides, the electoral suffrage is to be (as in the United States) the suffrage prescribed by state law

for the election of members of the more numerous state house, and it is expressly provided, doubtless with a view to the fact that women's suffrage already exists in two colonies, that no law shall prevent a state voter from voting at commonwealth elections. So far from securing, as does the United States Constitution, that no person shall be excluded on the ground of race from the suffrage, Australia has expressly provided that persons belonging to a particular race may be excluded, for she declares (sect. 25) that in such cases the excluded race is not to be reckoned among the population of the State for the purposes of an allotment of representatives. Plural voting is forbidden. The quorum of members is a mean between the inconveniently large quorum (one-half) of the American, and the very small one (forty) of the British House. The seat of any senator or member of the House becomes *ipso facto* vacant if he fails (without permission) to attend any session for two continuous months. No person having any pecuniary interest in any agreement with the public service (except as member of an incorporated company of at least twenty-five persons), or holding any office of profit under the crown, can sit in either house, unless he be a minister either of the Commonwealth or of a State. The exception is noteworthy, not only because it is framed with a view to the establishment of Cabinet government, but also because it implies that a man may, contrary to American and Canadian usage, be at the same time both an executive official of a State and also a member of the federal legislature. It would appear that women are eligible to membership of either house. Every senator and representative is to receive a salary, fixed for the present at £400 ($2000) a year.

### § 4. *The Federal Executive*

The executive is to consist of the governor-general and the ministers. To the great convenience of the Australian people, the head of the executive does not need to be elected either by popular vote (as in the United States) or by the Chambers, as in France and Switzerland. He is nominated by the British crown, and holds office so long as the crown pleases, receiving a salary fixed, for the present at £10,000 ($50,000) a year (exactly the salary of the American President). He has an executive council, modelled on the British Privy Council (though the name Privy Council is not used as it is in the Canadian Constitution), and from it he chooses a number of ministers (fixed for the present at seven), who are to

administer the several departments of the public service. They must be members of one or other House of Parliament — a remarkable provision, for though this is a British practice, that practice has never been embodied in any positive rule. As the governor-general is only a constitutional figurehead, these ministers will in fact constitute the ruling executive of the Commonwealth.

### § 5. *The Federal High Court*

The judiciary is to consist in the first instance of a federal high court (containing a chief justice and at least two other judges) capable of exercising both original jurisdiction in certain sets of cases, and also appellate jurisdiction not only from single federal judges and inferior federal courts, but also from the supreme courts of the States. Power is taken both to establish lower federal courts and to invest state courts with federal jurisdiction. But besides this judiciary proper, there is created a second court for dealing with cases relating to trade and commerce, under the name of the Inter-State Commission (sect. 101). This remarkable and very important institution has doubtless been suggested by the United States Inter-State Commerce Commission created by Congress some eighteen years ago in order to deal with railway and water traffic between the States. Its functions will be half-administrative, half-judicial, and in questions of pure law an appeal will lie from it to the high court, while a guarantee for its independence is found in the clause which declares that its members shall not be removed during their seven years' term of office. All federal judges are to be appointed by the governor-general, that is to say, by the executive ministry. All trials (on indictment) for any offence against the laws of the Commonwealth shall be by jury, and held in the State where the alleged offence was committed. The judicial establishments of the States remain unaffected, and the judges thereof will continue to be appointed by the state executives.

In determining the functions of the high court there arose an important question which seemed for a moment to threaten the whole scheme of federation. The draft constitution, which the convention had prepared and which the people had approved by their vote, provided that questions arising on the interpretation of the Constitution as to the respective limits of the powers of the Commonwealth and of the States, or as to the respective limits of the constitutional powers of any two or more States, should be adjudicated upon by the high court of the Commonwealth, and

that no appeal should lie from its decision to the Queen in council (*i.e.* to the judicial committee of the Privy Council in England, which is the Supreme Court of Appeal from the British colonies and India), "unless the public interests of some part of her Majesty's dominions, other than the Commonwealth or a State, are involved." When the draft reached England to be embodied in a bill, the British government took exception to this provision as tending to weaken the tie between the mother country and the colonies. There were many in England who thought that it was not in the interest of Australia herself that she should lose, in questions which might involve political feeling and be complicated with party issues, the benefit of having a determination of such questions by an authority absolutely impartial and unconnected with her domestic interests and passions. How much better (they argued) would it have been for the United States at some critical moments could they have had constitutional disputes adjudicated on by a tribunal above all suspicion of sectional or party bias, since it would have represented the pure essence of legal wisdom, an unimpeachable devotion to legal truth!

To this the Australians replied that the experience of the United States had shown that in constitutional questions it was sometimes right and necessary to have regard to the actual conditions and needs of the nation; that constitutional questions were in so far political that where legal considerations were nearly balanced, the view ought to be preferred which an enlightened regard for the welfare of the nation suggested; that a court sitting in England and knowing little of Australia would be unable to appreciate all the bearings of a constitutional question, and might, in taking a purely technical and possibly too literal a view of the Constitution, give to the Constitution a rigidity which would check its legitimate expansion and aggravate internal strife. Australia must — so they pursued — be mistress of her own destinies, and as it is she that had framed and procured the enactment of this Constitution, so by her ought the responsibility to be borne of working it on its judicial as well as its executive and legislative side. Not only was this better for Australia herself, but it would be more conducive to the maintenance of the connection between the Commonwealth and the mother country.

After some wavering, the British government, perceiving the risk of offending Australian sentiment, gave way. They dropped in committee of the House of Commons the alteration which they had introduced into the Australian draft, substituting for it an

amendment which, while slightly varying the original terms of the draft, practically conceded the point for which the Australian delegates, sent to England to assist in passing the measure, had contended. The act as passed provides that no appeal shall lie to the crown in council upon the constitutional questions above-mentioned unless the high court itself shall, being satisfied that the question is one which ought to be determined by the Privy Council, certify to that effect. In all other such cases its judgment will be final.

Appeals to the Privy Council in questions other than constitutional will continue to lie from the supreme courts of the States (with the alternative of an appeal to the high court) and from the high court itself, when special leave is given by the Privy Council. The commonwealth Parliament may limit the matters in which such leave may be asked, but the laws imposing such limitations are to be reserved for the pleasure of the crown.

The scheme of judicature above outlined follows in the main the model contained in the American Constitution. It does not draw the line between state and federal matters and courts so sharply, for appeals are to lie from state courts in all matters alike, and state courts may receive jurisdiction in federal matters. On the other hand, it is more comformable to principle than either the Canadian plan, which provides no federal courts save the supreme court and gives the appointment of all judges alike to the Dominion government, or the Swiss plan, which refers questions of conflict between the nation and the cantons, or as to the constitutionality of federal laws, not to the judiciary at all, but to the federal legislature. Broadly speaking, the Australian high court will have to fill such a place and discharge such functions as have been filled and discharged in America by that exalted tribunal which Chief Justice John Marshall and other great legal luminaries have made illustrious. In working out the provisions of the Constitution by an expansive interpretation, cautious but large-minded, it may render to Australia services not unworthy to be compared with those which America has gratefully recognized.

Now let us see how this frame of government, which I have briefly outlined in its salient features, is intended to work.

Its essence lies in a matter which is not indicated by any express provision, the dependence of the executive upon the legislature. Herein it differs fundamentally from the American and Swiss systems. It reproduces the English system of what is called Cabinet or responsible government; that is to say, a government

in which the executive instead of being, as in America, an independent authority, directly created by the people and amenable to the people only, is created by and responsible to the legislature. As and when the British colonies respectively obtained self-governing institutions, each of them adopted this scheme, since it was the one familiar to them at home; and to it they seem all determined to adhere.

Its distinctive features are these:—

The nominal head of the executive, in Britain the crown, in Australia the governor-general as representing the crown, is permanent, and is not responsible to the legislature, because he acts not on his own views, but upon the advice of his ministers.

The ministers are responsible to the legislature which virtually chooses them, and they depend upon its confidence for their continuance in office.

The ministers are, however, not wholly at the mercy of the legislature, because they may dissolve it, that is to say, may appeal to the people, in the hope that the people will elect a new legislature which will support them. This kind of government accordingly rests on a balance of three authorities,—the executive, the legislature, and the people, the people being a sort of arbiter between ministry and Parliament. As the ministry can at any moment appeal to the people, the threat of appealing puts pressure upon the Parliament, and keeps a majority cohesive. In the existence of this power of sudden dissolution there lies a marked difference from the American scheme, which some one has called astronomical, because the four years' term of office of the executive and the two years' term of the legislature are both fixed by the earth's course round the sun.

I have spoken of the legislature as the authority to which the ministry is responsible. But what is the legislature? In England, although Parliament consists of two houses, the minister-making power resides solely in the House of Commons. Being elective, the House of Commons has behind it the moral weight of the people and the prestige of many victories. Being the holder of the purse, it has the legal machinery for giving effect to its will, since without supplies administration cannot be carried on. Accordingly, though the existence of two often discordant houses may arrest or modify legislation in Britain, it does not affect the executive conduct of affairs, save on the rare occasions when immediate legislation is deemed indispensable by the executive. The same remark applies to Canada. There also one finds two houses, but

the Senate, being a nominated and not a representative body, holds an entirely secondary place. The ministry may disregard a vote of want of confidence passed by it, just as in England they disregard an adverse vote of the House of Lords. In Australia, however, things will be quite different. There the Senate has been constituted as a representative body, elected by the peoples of the States; and as the protector of the rights and interests of the States it holds functions of the highest importance. Its powers (save in one point to be presently mentioned) are the same as those of the House. In whom, then, does the power of making and unmaking ministries reside? Wherever one finds two assemblies, one finds them naturally tending to differ; and this will be particularly likely to occur where, as in Australia, they are constructed by different modes of election. Suppose a vote of no confidence in a particular ministry is carried in one house and followed by a vote of confidence passed in the other. Is the ministry to resign because one house will not support it? It retains the confidence of the other; and if it does resign, and a new ministry comes in, the house which supported it may pass a vote of no confidence in those who have succeeded it.

The problem is one which cannot arise either under the English or under the American system. Not under the English, because the two houses are not coördinate, the House of Commons being much the stronger. Not under the American, because, although the houses are coördinate, neither house has the power of displacing the President or his ministers. It is therefore a new problem, and one which directly results from the attempt to combine features of both schemes, the Cabinet system of England and the coördinate Senate, strong because it represents the States, which a federal system prescribes.

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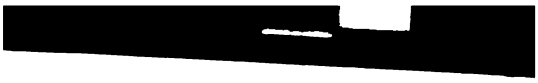
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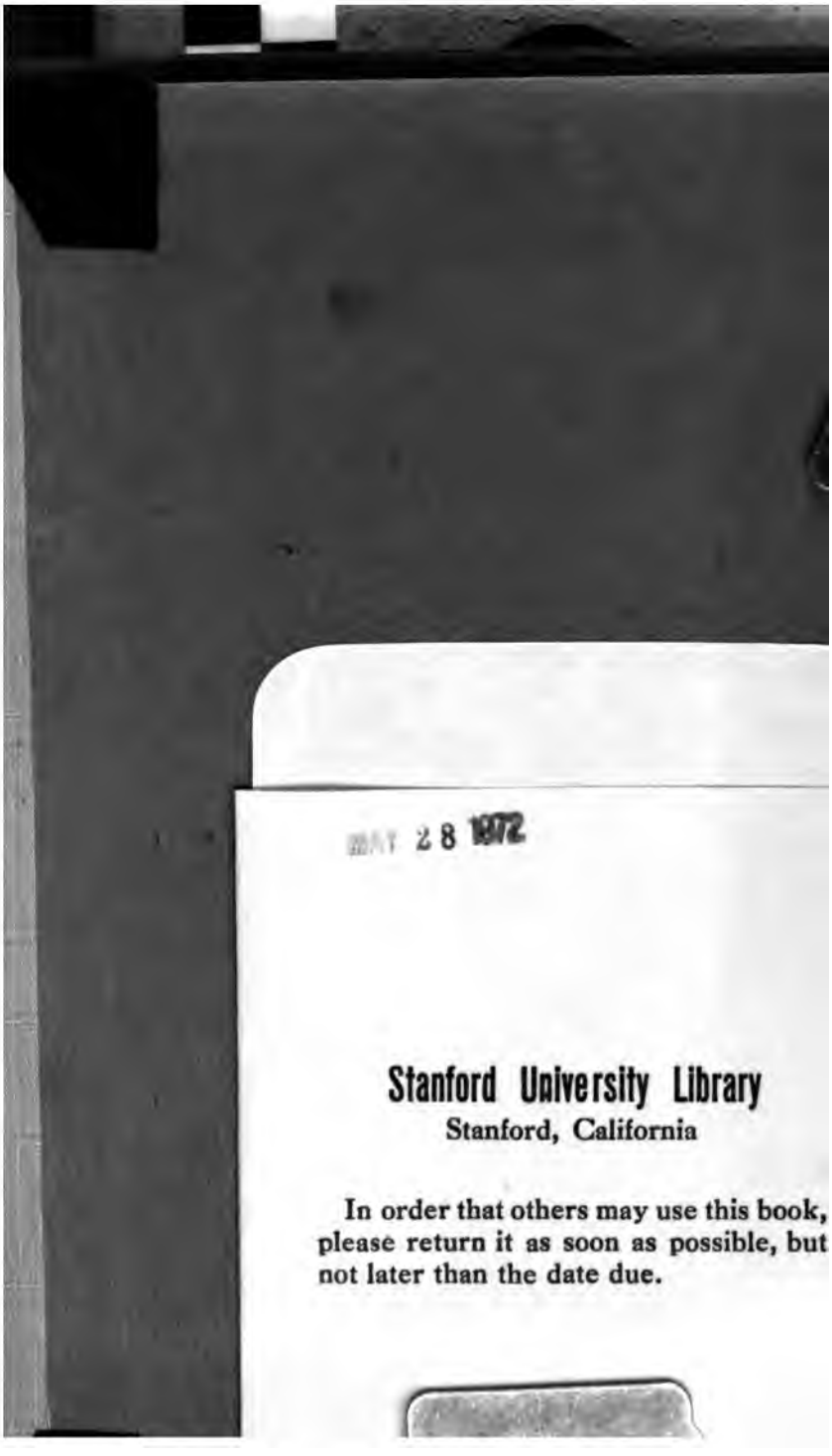











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